



Town Of Chatham
Department of
Community Development

Town Annex 261 George Ryder Road
Chatham, MA 02633

TELEPHONE (508) 945-5168

FAX (508) 945-5163



MEMORANDUM

TO: Economic Development Committee

cc: Peter Cocolis, Chairman, Chatham Planning Board

FROM: Deanna L. Ruffer, Director

DATE: March 22, 2016

SUBJECT: Proposed Zoning Amendments, 2016 Annual Town Meeting

There are a total of nine (9) zoning bylaw articles on the 2016 Annual Town Meeting (ATM) warrant. Two citizen's petitions, one amendment petitioned by the Board of Selectmen and six proposed by the Planning Board. Three of the amendments proposed by the Planning Board deal with changes to the Conservancy and/or Flood Plain Overlay Districts, two propose changes to the zoning along the Route 28 Corridor from the Harwich town line to the Crowell Road intersection. The sixth eliminates a waiver authority currently granted to the Planning Board under the Flexible Development Overlay Districts.

Copies of the six amendments proposed by the Planning Board are attached along with copies of memos provided to the Board of Selectmen (Attachments 1 & 2). Also attached are the presentations made on March 15th to the Board of Selectmen (Attachments 3 & 4). Copies of the legal ads for the other three proposed amendments are also attached (Attachment 5 & 6).

With the exception of the proposed elimination of two Flexible Development Overlay Districts (in South Chatham and West Chatham), the zoning amendments being proposed by the Planning Board have minimal impact on housing development opportunities in Chatham.

The Flexible Development Overlay Districts (FDODs) were adopted into Chatham's zoning bylaw for the purpose of "...a mix of commercial and multi-family, senior or congregate residential development..." The uses allowed in the FDODs are multi-family dwellings, independent living facilities and congregate living facilities. A copy of a background memo prepared for the Planning Board last fall and a map showing the locations of the six existing overlay districts are attached (Attachments 7 & 8).

The Planning Board's support for the removal of the South Chatham and West Chatham Flexible Development Overlay Districts (two of the existing six FDODs) is in direct response to the stated

desires of the broad community and neighborhood input received over the past three years. This input was gathered through a series of community and neighborhood workshops, on-line surveys, periodic briefings at the Board of Selectmen meetings, and numerous Planning Board work sessions. These opportunities for input were widely advertised throughout the community (in one or more instances, email notifications were sent to town boards, commissions and committees including the Economic Development Committee) and all meetings were publicly posted and open to the public.

The South Chatham Village Association has publicly stated its support for the South Chatham article and the rezoning of the Small Business Districts to residential zoning is specifically called for in the Comprehensive Plan.

The two citizen petitions both involve eliminating Flexible Development Overlay Districts. One proposes to eliminate three Flexible Development Overlay Districts (South Chatham, West Chatham and Cornfield). This is a “redo” of a petition that was passed at the 2015 Annual Town Meeting but was not approved by the Attorney General’s Office due to a procedural defect. The other is a new citizen’s petition submitted on March 10th that proposes eliminating the Flexible Development Overlay District in North Chatham.

As a side note, zoning amendment articles require a two-thirds vote at town meeting (as compared to a simple majority) and cannot be changed substantively on the floor of Town Meeting because of the statutory requirement that the Planning Board hold a public hearing on any zoning amendments before Town Meeting can act on the amendment.

The Planning Board shares the Economic Development Committee’s concerns about housing opportunities in Chatham. Last fall the Board began discussions about zoning bylaw amendments needed to allow for a diversity of housing types in Chatham. The Board subsequently decided more research was needed on this topic including gathering more information on the appropriate locations for such uses and obtaining input from a broad range of stakeholders including the Housing Advisory Committee, the Economic Development Committee, and the Council on Aging. As a result, the Planning Board did not put forward housing related zoning amendments for consideration at this year’s town meeting. The Board will take up this topic again after the 2016 ATM. When taking up the topic of housing, the EDC may also wish to review the town’s Housing Production Plan, which can be found on the town’s website, under the Affordable Housing Committee’s page.

There are two other articles on the 2016 ATM Warrant that the EDC may have an interest in discussing. Either, if adopted, could have a direct impact on economic development opportunities in Chatham. These articles propose changes to Article II, Regulation of Sewer Flow, of the Rules and Regulations of the Sewer Department. One is the outcome of several years of work by the Water and Sewer Advisory Committee (which Jack Cogswell, a former member of the EDC, chaired). The other is a citizen’s petition proposing greater restrictions on the allocation of additional sewer flow. Copies of both are attached (Attachment 9). Both will impact the process and ability of businesses to seek increases in sewer flow allocations to support business expansion or the establishment of new businesses in Chatham.



Town Of Chatham
Department of
Community Development

Town Annex 261 George Ryder Road
Chatham, MA 02633

TELEPHONE (508) 945-5168

FAX (508) 945-5163



CHATHAM BOARD OF SELECTMEN
AGENDA REPORT

TO: Honorable Board of Selectmen
Jill R. Goldsmith, Town Manager

FROM: Peter Cocolis, Planning Board Chairman

CC: Finance Committee
Town Moderator
Deanna Ruffer, Community Development Director

DATE: March 10, 2016

SUBJECT: Proposed Zoning Bylaw Amendments: Route 28 Corridor

On March 8, 2016, the Planning Board held public hearings on three (3) proposed bylaw amendments related to land use along the Route 28 corridor. On votes of 4-0 the Planning Board recommends approval by Town Meeting of the following amendments to the Town of Chatham Protective (zoning) Bylaw:

Article XX – South Chatham Overlay (map and narrative amendment)

- Eliminating the Flexible Development Overlay District and Small Business Zoning District in South Chatham;
- Rezoning this area to Residential 20 (R20) zoning; and
- Creating a new overlay district in the vicinity of Morton Road and Main Street allowing for limited commercial uses at a limited scale by special permit.

Article XX – Elimination of two (2) SB Zoning Districts Along Route 28 Corridor and the West Chatham FDOD, and Rezoning these areas to R-20 (“In-between Areas”) (map and narrative amendment)

- Eliminating the Small Business Zoning Districts in the vicinity of the Cape Cod Commercial Fishermen’s Alliance and to the east of the Cornfield area;
- Rezoning this area to Residential 20 (R20) zoning; and
- Eliminating the Flexible Development Overlay District to the east of Ocean State Jobs Lot.

Article XX – FDOD Waiver Removal (narrative amendment)

- Removing the authority of the Planning Board, as the special permit granting authority, to grant waivers to the dimensional requirements of the Districts.

Copies of the three draft warrant articles, including maps, are attached.

As the Board of Selectmen are aware, in 2012, the Town of Chatham requested technical assistance from the Cape Cod Commission to conduct a land use planning study of the Route 28 corridor from the Crowell Road intersection to the Harwich town line. The Comprehensive Plan identifies this corridor as including four specific neighborhood centers: South Chatham, West Chatham, Cornfield, and Crowell Road. The purpose of the project was to address local concerns about the form and layout of future development along the roadway and to review local land use regulations with the goal of identifying potential opportunities to enhance or change development patterns along the corridor consistent with the town's Comprehensive Plan.

On March 4, 2014 the Board of Selectmen accepted a set of twelve recommendations from the Cape Cod Commission addressing local concerns about the form and layout of future development along the Route 28 corridor and referred these recommendations to the Planning Board for implementation. On April 22, 2014, the Planning Board reviewed the twelve recommendations and decided to proceed with implementation of the first five:

1. Create four unique, neighborhood centers, tailoring the boundaries to create areas where similar land use is desired.
2. Limit formula-business activity in the corridor by, at a minimum, prohibiting them in the Small Business District.
3. Adopt zoning provisions to encourage mixed use in neighborhood centers.
4. Rezone parts of the corridor in between the neighborhood centers to low density residential districts (R-20).
5. Remove the six Flexible Development Overlay Districts.

The Planning Board held a series of neighborhood meetings to learn how the residents, property owners and business owners in the four neighborhoods along the corridor view their neighborhood as well as how they feel about existing land uses and envision the future of their neighborhood. A total of six neighborhood meetings were held, two of which were supplemented with a web based survey. Drawing on the input provided at these meeting, this past fall the Planning Board held a series of work sessions to develop recommended amendments to the Town's Protective (zoning) Bylaw. The three (3) proposed bylaw amendments are the result of these efforts.

The Planning Board continues to work on other possible bylaw amendments for the corridor which are anticipated to be advanced for consideration at a future town meeting.

Attachments:

Article XX – South Chatham Overlay

Article XX – Elimination of two (2) SB Zoning Districts Along Route 28 Corridor and the West Chatham FDOD, and Rezoning these areas to R-20 ("In-between Areas")

Article XX – FDOD Waiver Removal

TOWN MEETING WARRANT

ARTICLE XX – Zoning- SOUTH CHATHAM ZONING CHANGES

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the existing Bylaw

To see if the Town will vote to create a distinct South Chatham neighborhood center with surrounding residential areas by eliminating the South Chatham Flexible Development Overlay District, rezoning the South Chatham corridor that is currently zoned Small Business to Residential R20, and then creating a neighborhood center overlay district by amending its Protective (Zoning) Bylaw and Town of Chatham Zoning Map as follows:

Amend the **Town of Chatham Zoning Map** by eliminating the Flexible Development Overlay District from the following described area:

The **SB (FD) District** in South Chatham bounded westerly by Route 137; northerly by land of the Town of Chatham from Route 137 to Cockle Cove Creek; easterly by Cockle Cove Creek to Route 28 and southerly by Route 28.

And renumbering the remaining subsections accordingly.

Amend **Section IV., Overlay Regulations, Subsection D. Flexible Development District**, of the Protective (Zoning) Bylaw to delete the South Chatham area from the Flexible Development District by deleting Subsection 3.“e.” in its entirety as follows:

~~e. The **SB (FD) District** in South Chatham bounded westerly by Route 137; northerly by land of the Town of Chatham from Route 137 to Cockle Cove Creek; easterly by Cockle Cove Creek to Route 28 and southerly by Route 28.~~

Amend the **Town of Chatham Zoning Map** to rezone certain parcels or portions of parcels representing the Small Business (SB) zoning district in South Chatham to a Residential 20 (R20) zoning district as shown on the map entitled “Map 1-South Chatham SB Zoning District to be Rezoned R-20” and dated March 2016, said map being both attached to this Town Meeting warrant and on file with the Town Clerk.

Amend the **Town of Chatham Zoning Map** to create a “South Chatham Neighborhood Center (SC)” Overlay District by creating an overlay district that overlays that portion of South Chatham bounded on the north side of Route 28 from 100 feet west of Morton Road and continuing easterly to 190 feet east of Morton Road and on the south side of Route 28 from Pleasant Street to 100 feet east of Mill Creek Road at a depth of 150 feet from the road right of way as shown on the map entitled “Map 2-South Chatham Overlay District” and dated March 2016 said map being both attached to this Town Meeting warrant and on file with the Town Clerk.

Amend the **Protective (Zoning) Bylaw** to create regulations for the South Chatham Overlay District as follows:

Amend **Section III., District Regulations, Subsection A. Type of Districts** by adding the following in the second list under the words, "In addition the following overlay districts are established" as a last item:

South Chatham Overlay District: SC

Amend **Section IV., Overlay Regulations**, by adding the following Subsection in its entirety:

E. South Chatham Overlay District (SC)

1. Purpose

The South Chatham neighborhood center is intended to provide an opportunity for limited commercial/business development while preserving the historical seaside village character of the neighborhood.

2. Location

The South Chatham Overlay District is located along the Route 28 corridor in South Chatham from approximately 100 feet west of Morton Road to approximately 190 feet east of Morton Road on the north side and from Pleasant Street to approximately 100 feet east of Mill Creek Road on the south side as more specifically shown on the Zoning Map dated May 9, 2016.

3. Uses

a. All uses permitted in the underlying Residential 20 (R20) zoning district shall be permitted in the SC Overlay District pursuant to Appendix I Schedule of Use Regulations and other applicable provisions of the Bylaw.

b. Additionally, the following overlay uses shall also be permitted in the SC Overlay District by Special Permit. These overlay uses shall be pursuant to the requirements of this Section IV. E. herein and to any applicable requirements of Section VII Special Regulations and other applicable provisions of the Bylaw.

- Antique Shop, Art Gallery and Gift Shop
- Apartment Incidental to a Commercial use and Industrial Use
- Bank
- Lunch Room
- Personal and Household Services

- Professional Office
- Retail Sales and Services

c. The overlay uses allowed by Special Permit in b. above shall be required to obtain **Site Plan** Approval pursuant to regulations set forth in Section VI, Subsection A. Site Plan Review

d. No individual overlay use allowed by Special Permit in b. above shall have a unit size of greater than 2,500 square feet of floor area.

e. The overlay uses allowed by Special Permit in b. above are subject to Appendix II Schedule of Dimensional Requirements.

4. Procedure

The development of any overlay use, or change in an existing use to an overlay use, shall be required to obtain **Site Plan** Approval pursuant to regulations set forth in Section VI, Subsection A. **Site Plan** Review and shall require a Special Permit from the Zoning Board of Appeals pursuant to Section VIII.C. and other applicable provisions of the Bylaw.

Amend **Section VI, Supplementary Regulations, Subsection B. Parking Requirements** by adding to Subsection (4) the following paragraph after the first paragraph:

Within the SC Overlay District, parking requirements for any overlay use shall be pursuant to Section VI.B. Any additional required parking spaces within the SC shall be located to the side or rear of the **lot** to the maximum extent practicable. The Planning Board shall determine maximum extent practicable during the **Site Plan** Review process and shall document reasoning for determination to the Zoning Board of Appeals prior to the **Special Permit** hearing.

Amend **Section VII., Special Regulations, Subsection B.3. Antique Shop, Art Gallery or Gift Shop**, by amending the first sentence to now read as follows:

Permitted in the Small Business (SB) District and allowed by Special Permit in the South Chatham Neighborhood (SC) Overlay District as follows:

Amend **Section VII., Special Regulations, Subsection B.4. Apartment, Incidental to a Commercial Use and Industrial Use** by amending the first sentence to now read as follows and by adding a paragraph number 5. in subsection a. as follows:

Permitted in the Industrial (I) Districts and allowed by Special Permit in the General Business (GB) Districts and in the South Chatham Neighborhood (SC) Overlay District as follows:

a.5. In the SC District, there shall be no more than two (2) **apartments** in any one building.

Amend **Section VII., Special Regulations, Subsection B.16. Restaurant, Lunch Room, Bar, Tavern, Fast-Food or Takeout Restaurant** by adding the following section to the end of the existing section:

Lunch Room is allowed by Special Permit in the South Chatham Neighborhood (SC) Overlay District pursuant to Section IV.E. as an overlay use provided that the regulations as listed in Section IV.E.3.c, d. and e. have been met.

Amend **Appendix I., Schedule of Use Regulations**, by adding the following footnote "6" to the R20 column to the following uses:

Antique Shop, Art Gallery and Gift Shop⁶
Apartment Incidental to a Commercial use and Industrial Use⁶
Bank⁶
Lunch Room⁶
Personal and Household Service⁶
Professional Office⁶
Retail Sales and Services⁶

⁶ Also allowed in the South Chatham Neighborhood (SC) Overlay District pursuant to Section IV.E.

Amend **Appendix II, Schedule of Dimensional Requirements**, by adding the following district row for SC Overlay and adding the following footnote 14:

District	Min. Lot Size (sq ft)	Min. Frontage (feet)	Minimum Building/Structure Setbacks ^{9, 10}					Maximum Bldg. Height					Min. Parking Setbacks		
			Conservancy Districts ^{2, 3}			Abutter (ft)	Coastal (ft)	Inland (ft)	Max. Lot Coverage	Max. Bldg Coverage	Reg. Green Area	Stories ⁶		Road (ft)	Abutters (ft)
			Road (ft)									Feet			
<u>SC Overlay</u> ¹⁴	<u>20,000</u>	<u>100</u>	<u>25</u>	<u>15</u>	<u>50</u>	<u>25</u>	<u>50%</u>	<u>20%</u>	<u>50%</u>	<u>2 ½</u>	<u>30</u>	<u>20</u>	<u>15</u>		

¹⁴ These dimensional requirements shall apply only to a lot or structure housing an overlay use as provided for in Section IV. E. of this Bylaw. Other uses as allowed for under the underlying zoning district of R20 shall be subject to the R20 Dimensional Requirements.

Motion: By, _____, Planning Board Chairman

I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for Article X.

Speaker: _____, Chatham Planning Board

Explanation:

The Purpose of the Article is to create a distinct South Chatham neighborhood center with surrounding residential areas by eliminating the South Chatham Flexible Development Overlay District and rezoning the section of Main Street in South Chatham that is currently zoned Small Business (SB) to 20,000 square foot residential zoning "R20"; and then creating a South Chatham Overlay District allowing limited commercial uses of limited scale by site plan approval and special permit. Parking for commercial uses is also required, to the maximum extent practicable, to be to the side or rear of the property to help preserve the residential character of the neighborhood.

The Comprehensive Plan describes South Chatham as "a quiet, rural neighborhood with very limited commercial activity. The predominant land use is residential." This proposed amendment is consistent with the following Goals and Policies set forth in the Land Use section of the Comprehensive Plan:

- "...zoning shall be changed to limit the size of some neighborhood centers to keep development contained therein, change existing small business districts to residential zoning, and create specific criteria unique to each neighborhood center." (LU Goal 1.1)
- "Preserve neighborhood character; limit business to small, neighborhood establishments; prevent expansion of commercial area; ... (LU Goal 1.2, Policy LU26)

Board of Selectmen Recommendation:

Finance Committee Recommendation:

Planning Board Recommendation:

Article XX-Map 1
SOUTH CHATHAM-SB
ZONING DISTRICT TO BE REZONED R-20

March 2016

R-60

Route 28

Ridgevale Road

Route 28

Cockle Cove Road

SB ZONING DISTRICTS
TO BE REZONED R-20

R-20

Juniper Lane

Route 28

Waterview Circle

Morton Road

PROPOSED
OVERLAY

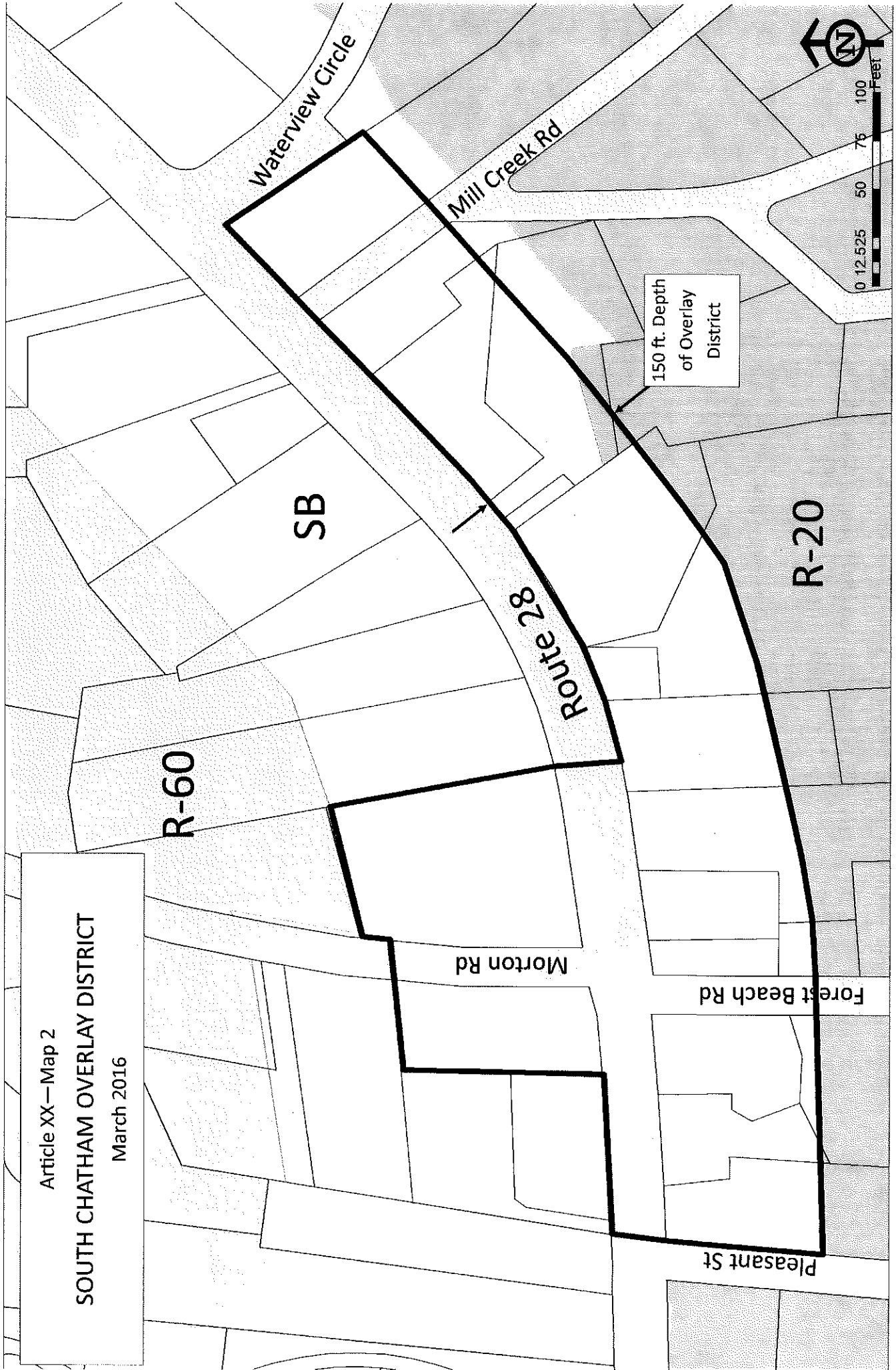


0 125 250 500 750 1000 Feet

Article XX—Map 2

SOUTH CHATHAM OVERLAY DISTRICT

March 2016



TOWN MEETING WARRANT

ARTICLE XX – Zoning- ELIMINATING TWO (2) SB ZONING DISTRICTS ALONG ROUTE 28 CORRIDOR AND THE WEST CHATHAM FLEXIBLE DEVELOPMENT OVERLAY DISTRICT AND REZONING THESE AREAS TO RESIDENTIAL 20 (R20) ZONING DISTRICT (In-Between Areas)

To see if the Town will vote to eliminate two Small Business (SB) zoning districts along Route 28 corridor by rezoning the following parcels from a Small Business (SB) zoning district to a Residential R20 zoning district as shown on the map entitled "Map 1-Rezoning SB Zoning Districts to R20 & Eliminating West Chatham FDOD" and dated February 2016, said map being both attached to this Town Meeting warrant and on file with the Town Clerk.

Also amending Section IV.D. – Flexible Development District by deleting Subsection 3.b. as follows:

3.

~~b. The SB (FD) District bounded westerly by the westerly property line of Sumner G. N. Harding and Jean C. Harding; northerly by land of the Town of Chatham, by Bearse's Pond, and by a line five hundred (500) feet from, and parallel to Route 28; easterly by Wheldon Way; and southerly by Route 28, excluding therefrom any land lying within the bounds of the adjoining Conservancy District.~~

And renumbering the remaining subsections accordingly.

Motion: By, Peter Cocolis, Chairman, Town of Chatham Planning Board
I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for Article X.

Speaker: _____, Chatham Planning Board.

Explanation:

The Purpose of the Article is to create residential districts in between specific, designated neighborhood centers to reduce commercial sprawl, consistent with Goal 1.1 of the Comprehensive Plan, which specifically calls for changing existing small business districts to residential zoning.

The existing Small Business district is a residential zoning district which allows small businesses such as antique shops, art galleries and gift shops as well as small scale restaurants and offices to be co-located with residences. Boarding houses, dormitories and group dwellings are also allowed in this district. While such uses would no longer be allowed in the areas to be rezoned, existing businesses would be allowed to continue to exist and would be able to be altered or expanded through a special permit process.

Board of Selectmen Recommendation:

Finance Committee Recommendation:

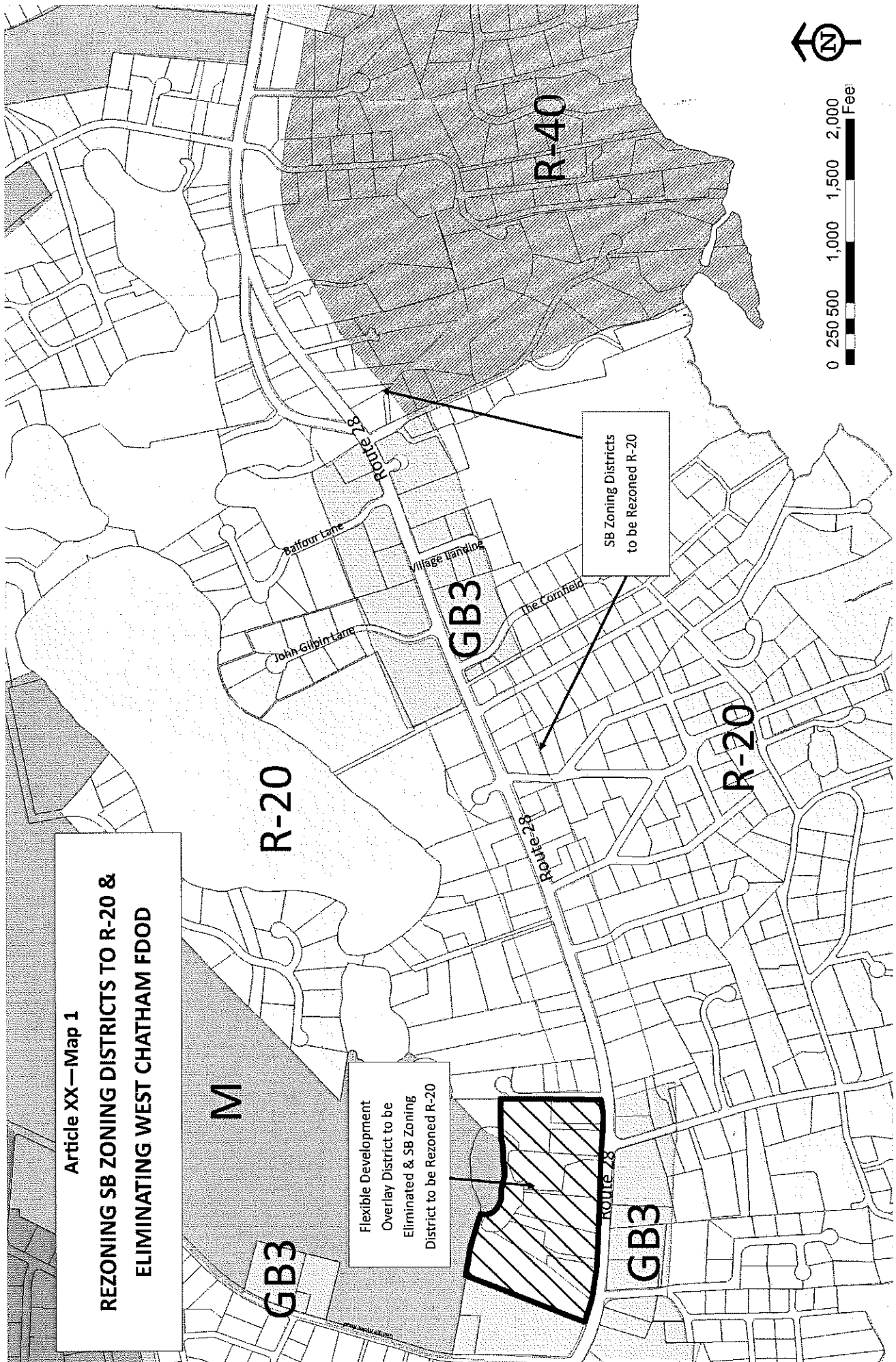
Planning Board Recommendation:

1. The first part of the document is a list of the names of the members of the committee.

2. The second part of the document is a list of the names of the members of the committee.

Article XX—Map 1

REZONING SB ZONING DISTRICTS TO R-20 &
ELIMINATING WEST CHATHAM FDOD



TOWN MEETING WARRANT

ARTICLE XX – Zoning- Flexible Development Overlay Districts (FDOD) Waiver Removal

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the existing Bylaw

To see if the Town will vote to delete the existing provision in the Flexible Development District regulation which allows the Planning Board as Special Permit Granting Authority to waive or modify dimensional requirements with the Flexible Development Overlay Districts as follows:

Amend **Section IV, Overlay Regulations**; Subsection D. **Flexible Development District**, by amending subsection 2.b. by deleting the second sentence of that paragraph as follows:

2. Procedure

b. The plans for a Flexible Development shall comply with the specific requirements ***for multi-family dwellings, independent living facilities or congregate living facilities***, whichever applicable, set forth in Section VII of this Bylaw. ~~The Board may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this Bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.~~

Motion: By, Peter Cocolis, Chairman, Town of Chatham Planning Board
I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for Article X.

Speaker: _____, Chatham Planning Board.

Explanation:

This article eliminates the existing provision within the Flexible Development District with authorizes the Planning Board as the Special Permit Granting Authority in the Flexible Development Overlay Districts ("FDOD") to be able to 'waive or modify' the dimensional requirements within the FDODs. If this article is adopted, then the Planning Board would no longer have the authority to waive any dimensional requirements within the FDODs and all development within the FDODs would be required to meet all dimensional requirements set forth in the Protective Bylaw. This amendment would apply to all FDODs.

Board of Selectmen Recommendation:

Finance Committee Recommendation:

Planning Board Recommendation:



Town Of Chatham
Department of
Community Development

Town Annex 261 George Ryder Road
Chatham, MA 02633

TELEPHONE (508) 945-5168

FAX (508) 945-5163



CHATHAM BOARD OF SELECTMEN
AGENDA REPORT

TO: Honorable Board of Selectmen
Jill R. Goldsmith, Town Manager

FROM: Peter Cocolis, Planning Board Chairman

CC: Deanna Ruffer, Community Development Director
Ryan Bennett, Principal Planner

DATE: March 10, 2016

SUBJECT: Proposed Bylaw Amendments: Nonconforming Lots, Buildings & Uses (Section V)

On February 23rd, 2016, the Planning Board held public hearings on three (3) proposed amendments related to the Conservancy and Flood Plain District Overlays in the Town of Chatham Protective (zoning) Bylaw. The Board took action on two (2) of the proposed amendments, recommending approval by Town Meeting, but decided to reconsider proposed language in the *Nonconforming Lots, Buildings & Uses Article* that addressed the Zoning Board of Appeals criteria when considering projects involving flood hazard mitigation. Specifically, based on comments made during the public hearing, the Board decided to consider whether language to address lateral expansion would be more appropriate. Consequently, the Board elected not to move forward with the article as presented and directed staff to prepare revised language that addressed the lateral expansion concerns that arose during the public hearing.

On March 8th, the Planning Board reviewed revised language presented by staff and voted 4-0 to refer a revised article to the Board of Selectmen in order to initiate a new public hearing. The purpose of the proposed amendment remains unchanged, which is to provide the ZBA with specific criteria for considering the impacts of elevated dwellings in the floodplain; however, the proposed criteria have been substantively changed, and thus requires re-advertising and a new public hearing.

At this time, it is respectfully requested that the Board refer this proposed zoning amendment back to the Planning Board so that it may proceed with the statutory public hearing (required under M.G.L. Chapter 40A Section 5), which has been tentatively scheduled for April 12th, 2016.

Thank you for your consideration.

Attachments:

Article XX – Nonconforming Lots, Buildings & Uses

1. The first part of the document is a list of the names of the persons who have been named in the proceedings.

TOWN MEETING WARRANT

ARTICLE XX – ZONING FLOODPLAIN OVERLAY DISTRICT & CONSERVANCY DISTRICT PROHIBITED USES

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the existing Bylaw

To see if the Town will vote to amend the Flood Plain District Overlay and the Conservancy District Overlay by amending its Protective (Zoning) Bylaw as follows:

Amend **Section IV.B.1. Purpose, Flood Plain District** of the Protective (Zoning) Bylaw with the following language:

The purposes of the Flood Plain District are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of ~~periodic flooding~~ flood and tidal waters, preserve the natural flood control characteristics and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

Amend **Section IV.B.2, Flood Plain District** of the Protective (Zoning) Bylaw to add the following language:

- b. “BASE FLOOD ELEVATION” is the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps and on flood profiles. The BFE is the regulatory requirement for the elevation of structures.
- d. “ELEVATION CERTIFICATE” is the Town of Chatham’s official record that provides elevation information for substantial improvements in all identified Special Flood Hazard Areas (SFHA). Elevation Certificates are used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) from FEMA. Elevation Certificates are signed and stamped by a registered land surveyor, engineer, or architect.
- e. “FREEBOARD” is a term used to describe a factor of safety expressed in feet above the 1-percent-annual-chance flood level.
- h. “SUBSTANTIAL IMPROVEMENT” means repair, construction or alterations costing fifty (50) percent or more of the market value of the **structure** before improvement, or, if damaged, before damage occurred, or in the case of a

foundation, work that impacts fifty (50) percent or greater of the perimeter of the foundation. (5/11/93 ATM)

Amend Section IV.B.4, Development Regulations, Flood Plain District of the Protective (Zoning) Bylaw to remove the following language that is duplicative and/or inconsistent with State Building Code:

- ~~a. All development in the district including structural and non-structural activities whether permitted by right or by Special Permit must be in compliance with the following:
 - ~~1. Chapter 131, Section 40 of the Massachusetts General Laws. (See Wetlands Protection, 310 CMR 10.00, Department of Environmental Quality Engineering)~~
 - ~~2. The State Environmental Code Title V, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Quality Engineering~~
 - ~~3. The Flood Resistant Construction requirements of the Massachusetts State Building Code. (5/11/98 ATM)~~~~
- ~~e. Where **flood** proofing is utilized a registered engineer or architect shall certify that the **flood** proofing methods are adequate to withstand the **flood** depths, pressures, velocities, impact and uplift forces and other factors associated with the **base flood**.~~
- ~~d. In unnumbered A zones, in the absence of Federal Emergency Management Agency base flood elevation data, the **base flood** elevations shall be determined by obtaining, reviewing and reasonably utilizing any existing **base flood** elevation data from federal, state or other sources.~~
- ~~e. Electrical heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~
- ~~f. For all **new construction** and **substantial improvements**, fully enclosed areas below the **lowest floor** that are subject to flooding shall be designed to automatically equalize hydrostatic **flood** forces on exterior walls by allowing for the entry and exit of **flood** waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of **flood** waters.~~
- ~~g. In all **new construction** and **substantial improvements** within Zone VE the space below the **lowest floor** must either be free of obstruction or constructed with non-supporting~~

breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the **building** or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. ~~breakaway wall collapse shall result from a water load less than that which would occur during the **base flood**; and~~
 2. ~~the elevated portion of the **building** and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all **building** components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one (1) percent chance of being equaled or exceeded in any given year (one hundred (100) year mean recurrence interval). Such enclosed space shall be usable solely for parking of vehicles, **building** access or storage.~~
- i. ~~New or replacement water and/or sewer systems shall be designed to avoid impairment to them or contamination from them during flooding.~~
- j. ~~If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning Bylaw it shall be reviewed to assure that:~~
1. ~~the proposal is designed consistent with the need to minimize flood damage,~~
 2. ~~all public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage,~~
 3. ~~adequate drainage systems shall be provided to reduce exposure to flood hazards, and~~
 4. ~~base flood elevation (the level of the 100-year flood) data shall be provided for proposals greater than fifty (50) lots or five (5) acres, whichever is the lesser, for that portion within the Flood Plain District.~~
- k. ~~In Zone AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.~~

Amend **Section IV.B.4, Development Regulations, Flood Plain District** of the Protective (Zoning) Bylaw to add the following language:

- b.a. New construction or substantial improvement of residential structures shall have the lowest floor (including basement) elevated to not less than one (1) foot above the base flood elevation. New construction or substantial improvement of nonresidential structures shall either be similarly elevated or together with attendant utility and sanitary facilities be flood proofed to not less than base flood elevations. Incremental improvements shall be considered substantial improvements if within a five-year (5) period, they cumulatively meet the definition of "substantial improvement." (5/11/93 ATM)
- h.b. No land within areas designated as V (Velocity) zones of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any manmade alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited. Incremental improvements shall be considered substantial improvements (see definitions) if within a five-year period, they cumulatively meet the definition of "substantial improvement." (5/11/93 ATM)
- c. All **development** in the district, including structural and non-structural activities whether permitted by right or by Special Permit, and as allowed by Section IV.A.2 of the Protective Bylaw, must be in compliance with Flood Resistant Design and Construction requirements of the MA State Building Code.
- d. Landscape material up to two feet in depth at the foundation and tapered to meet grade within ten feet (10) of the foundation shall not be calculated towards grade plane and shall not be considered fill as regulated in Section IV.A.4 of this Bylaw.
- e. Demolition debris shall be removed from the site within fourteen (14) days of completion and not stored within a resource area or a buffer strip. If a dumpster is used to contain the debris, the dumpster will be covered. The debris will be properly disposed of in accordance with applicable federal, state, and local regulations.
- f. Construction material and excavation materials will be stored completely outside of the Flood Plain District when possible based on the boundaries of the parcel and the boundaries of the designated floodplain.
- g. Exposed, disturbed, or erodible soils will be protected to minimize erosion, sedimentation, pollution, and damage to the subject and adjacent properties.

Amend **Section IV.B.5, Flood Plain District** of the Protective (Zoning) Bylaw to include a new section with the following language:

5. Prohibited Uses

The following uses and activities are prohibited in the VE Zone.

- a. Addition, alteration or reconstruction of an existing structure that results in an increase in building footprint.
- b. Repair of a substantially damaged existing structure which results in an increase in building footprint.
- c. Any increase in impervious surface on a residential lot. This may include, but is not limited to, swimming pools, tennis/basketball courts and retaining walls. For functionally dependent projects allowed in the VE Zone, impervious surfaces accessory to the use are allowed provided a Massachusetts registered civil engineer certifies in writing that the impervious surface will not cause an increase in wave run-up, a deflection or channelization of flood waters, or an increase in the velocity of flow.

Amend **Section IV.B.5, Administration, Flood Plain District** of the Protective (Zoning) Bylaw to remove the following language:

~~c. Zoning Board of Appeals~~

~~1. The Board of Appeals may grant a variance from these requirements only upon:~~

- ~~a. a showing of good and sufficient cause, and~~
- ~~b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and~~
- ~~c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, and~~
- ~~d. a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~

~~2. A variance shall not be issued within any designated regulatory flood way if any increase in flood levels during the base flood discharge would result.~~

~~3. If a variance is granted, the Board of Appeals shall notify the applicant in writing over their signature that:~~

- ~~a. the issuance of such variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty five (25) dollars for one hundred (100) dollars of insurance coverage, and~~
- ~~b. such construction below the base flood level increases risks to life and property.~~

~~4. The Board of Appeals will maintain a record of all variance actions, including justification for their issuance and report such variances issued in the Annual Report submitted to the Federal Insurance Administration.~~

~~5. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or on State Inventory of Historic Places, without regard to the procedures set forth above.~~

~~6. Variances for functionally dependent uses will be considered for those docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building repair facilities, but does not include long term storage or related manufacturing facilities.~~

Amend and rename **Section IV.B.5, Administration, Flood Plain District** of the Protective (Zoning) Bylaw to:

5. 6. Administration

Amend **Section IV.A.2. Permitted Uses, Conservancy District** of the Protective (Zoning) Bylaw to strike and add the following language:

- ~~d. The maintenance to minimum legal and practical width and height of all roads and driveways that exist as of July 1, 2007.~~
- d. The maintenance of legally permitted fences and driveways that exist as of July 16, 2014.

Amend **Section IV.A.4. Prohibited Uses, Conservancy District** of the Protective (Zoning) Bylaw to add the following language:

- a. No person shall fill, place or dump in a Conservancy District any soil, loam, peat, sand, gravel, rock or other material substance, refuse, trash, rubbish, debris or dredged material, except, with the exception of landscaping material as allowed under Section IV.B.4 of this Bylaw.

- d. No person shall construct a new residential ***dwelling unit***, or use a houseboat or barge designed or used as a ***dwelling unit*** in the Conservancy District.
- e. No person shall construct any new building (except as allowed with a marina or boatyard under Section IV.A.3.b of this Bylaw) in ~~Zones V and V1-30~~ a VE Zone, as defined on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Chatham, dated ~~June 20, 1998~~ July 16, 2014. ~~(5/11/98 ATM).~~

Motion: By Peter Cocolis, Chairman, Planning Board

I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for Article X.

Speaker: _____, Planning Board.

Explanation:

The Purpose of the Article is to remove language in the Flood Plain Overlay District that is duplicative or inconsistent with the Massachusetts State Building Code, to add a category of prohibited uses in the Velocity (or VE) Zone, and to clarify prohibited uses within the Conservancy District.

Board of Selectmen Recommendation:

Finance Committee Recommendation:

Planning Board Recommendation:

TOWN MEETING WARRANT

ARTICLE XX – ZONING CONSERVANCY DISTRICT BOUNDARY AND HEIGHT CHANGES

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the existing Bylaw.

To see if the Town will vote to amend the Conservancy District Overlay by amending its Protective (Zoning) Bylaw as follows:

Amend **Section IV.A.5. Location, Conservancy District** of the Protective (Zoning) Bylaw to add the following language:

1. Areas delineated as the 100-year flood plain (Zones ~~A, AO, AH, A1-30, A99, V- and V1-30~~ A, AE, AO, VE and X) on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Chatham dated ~~June 20, 1998~~ July 16, 2014. (5/12/14 ATM)

Amend **Section IV.A.3. Special Permit Uses, Conservancy District** of the Protective (Zoning) Bylaw to amend and add the following language:

- a. The construction of ***catwalks, piers*** (per requirements of Section IV.A.6.c), ramps, stairs, unpaved trails, ***boathouses***, boat shelters, ***roadside stands***, fences, wildlife management shelters, foot bridges, observation decks or shelters, tennis courts, and ***structures*** used in conjunction with a ***fishing use***. Such ***structures*** shall conform to the ***street setback*** and ***abutters setback*** for the district in which the ***lot*** is located, and shall be constructed so as to permit the reasonably unobstructed flow of water and preserve the natural contour of the area—***structures*** and shall not exceed twenty (20) feet in height. ~~Provided there is no expansion, those dwellings which existed prior to January 16, 1992 and are required by the Building Inspector to be elevated in accordance with FEMA Regulations, shall not be required to conform to the twenty (20) foot height restriction. (5/11/92 ATM).~~

~~* See specific requirements of Section IV. A.6.c. below.~~

- b. Dwellings located within the 100-year flood plain on the effective Flood Insurance Rate Maps for the Town of Chatham may elevate to meet Base Flood Elevation (BFE) requirements. An Elevation Certificate prepared by a licensed professional is required to determine BFE. The maximum allowable height of the elevated structure may only exceed the existing ridge height, as measured from the top of the existing foundation, by the minimum height necessary to meet BFE and freeboard requirements of the State

Building Code. No dwelling shall exceed thirty (30') feet in height, as measured from the lowest adjacent grade determined by the Elevation Certificate.

Motion: By Peter Cocolis, Chairman, Planning Board

I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for Article X.

Speaker: _____, Planning Board.

Explanation:

The Purpose of the Article is to extend the Conservancy District Boundary to be consistent with the 2014 Flood Insurance Rate Maps for the Town of Chatham; to amend language in the Conservancy District to remove a 20' height restriction, and; to include language to control building height that will allow reasonable and equitable flood hazard mitigation for properties in the floodplain.

Board of Selectmen Recommendation:

Finance Committee Recommendation:

Planning Board Recommendation:

TOWN MEETING WARRANT

ARTICLE XX – NONCONFORMING LOTS, BUILDINGS & USES

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the existing Bylaw

To see if the Town will vote to amend the Nonconforming Lots, Buildings & Uses section of its Protective (Zoning) Bylaw as follows:

Amend **Section V.B. Nonconforming Lots, Buildings & Uses - Enlargement, Extension or Change** of the Protective (Zoning) Bylaw to add the following language:

12. For those dwellings located in the flood plain, as defined on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Chatham, dated July 16, 2014, the following additional criteria shall apply:
 - a. The extent of lateral expansion proposed, and
 - b. The extent to which lateral expansion impacts the impervious area of the site.

Motion: By Peter Cocolis, Chairman, Planning Board

I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for Article X.

Speaker: _____, Planning Board.

Explanation:

The Purpose of the Article is to amend language in the Nonconforming Lots, Buildings & Uses section to provide additional criteria to the Special Permit Review process for flood hazard mitigation projects. When elevating a home, some degree of lateral expansion may be necessary to maintain livability and meet building code requirements. This Article proposes to provide the ZBA with criteria to balance the need for lateral expansion with proposed increases in impervious area on a site for those dwellings located in the floodplain that seek a Special Permit to elevate .

Board of Selectmen Recommendation:

Finance Committee Recommendation:

Planning Board Recommendation:

Route 28 Corridor Land Use Implementation

1

**ADDRESS LOCAL CONCERNS ABOUT THE
FORM AND LAYOUT OF FUTURE
DEVELOPMENT**

**ENHANCE CONSISTENCY OF TOWN LAND
USE REGULATIONS WITH COMPREHENSIVE
PLAN**

Proposed Bylaw Amendments

2

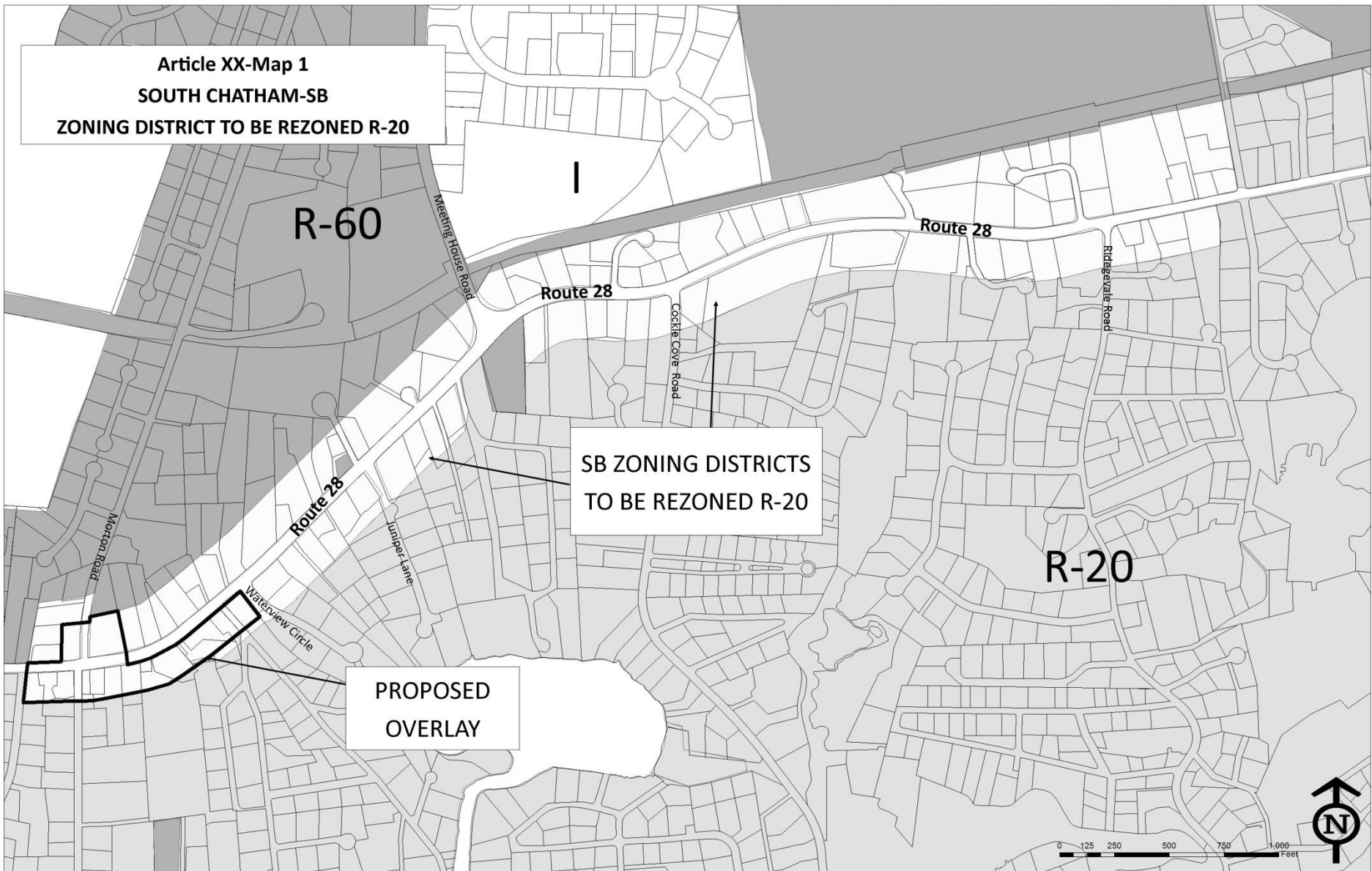
1. South Chatham Neighborhood Center - Eliminate Small Business (SB) district, rezone to Residential – 20,000 sf & create new neighborhood center overlay district
2. In between areas – Eliminate remaining SB zoning along corridor, eliminate West Chatham Flexible Development Overlay District & rezone to Residential – 20,000 sf
3. Eliminate PB waiver authority in the Flexible Development Overlay Districts (FDODs) – FDODs allow for multi-family dwellings, independent living facilities & congregate living facilities

South Chatham Neighborhood Center

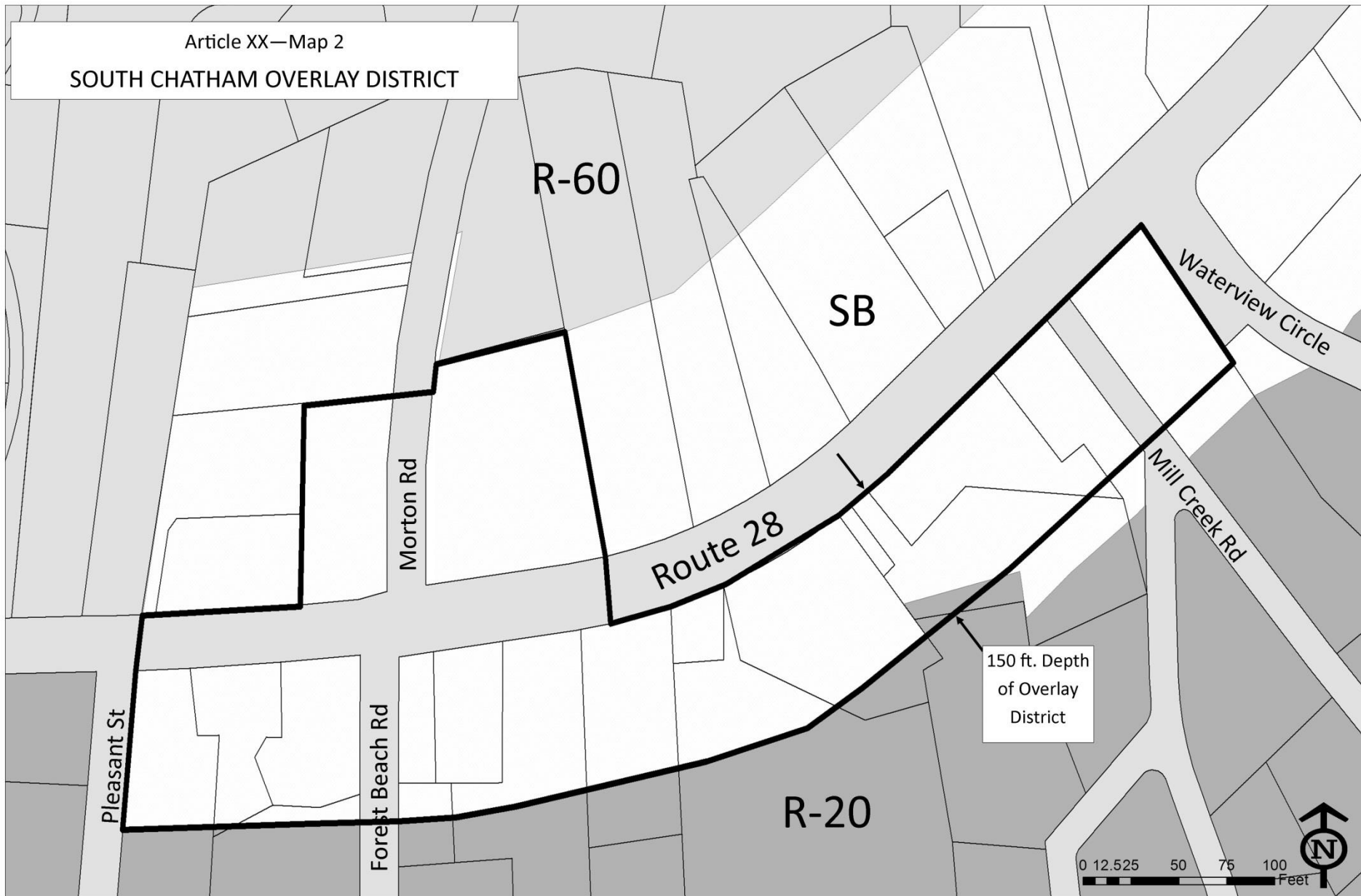
3

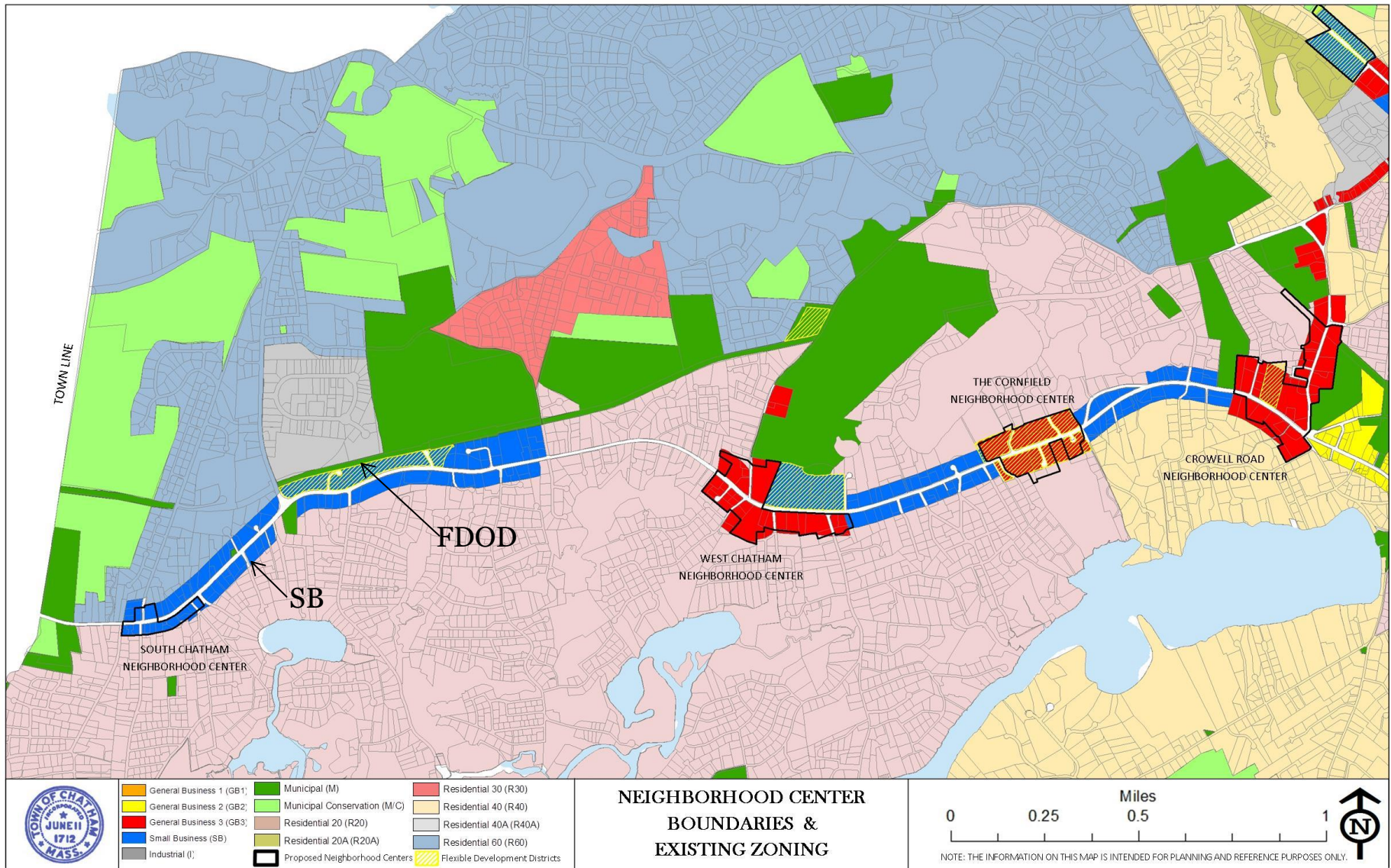
- Remove South Chatham Flexible Development Overlay District & Small Business district – rezone to Residential – 20,000 sf
- Create Neighborhood Center Overlay District
 - Boundary based on neighborhood input & supported by SCVA
 - Allows for limited commercial uses by special permit
 - Limits scale & establishes dimensional standards similar to R20 with maximum lot coverage
- Consistent with Comprehensive Plan
 - Limiting area of neighborhood center
 - Limiting type and scale of commercial activity
 - Reducing the potential for residential & commercial development/redevelopment

Article XX-Map 1
SOUTH CHATHAM-SB
ZONING DISTRICT TO BE REZONED R-20

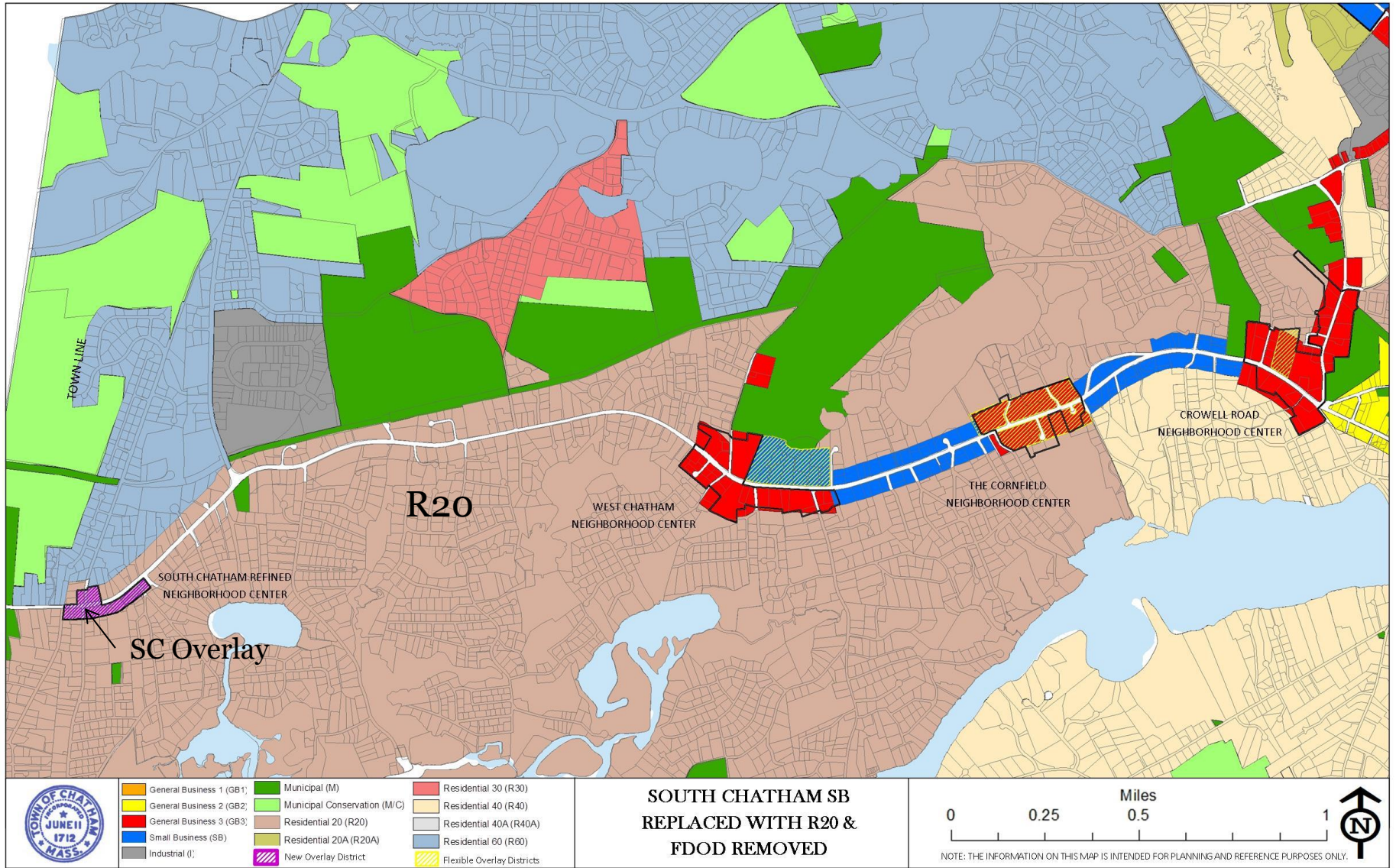


SOUTH CHATHAM OVERLAY DISTRICT





November 17, 2015

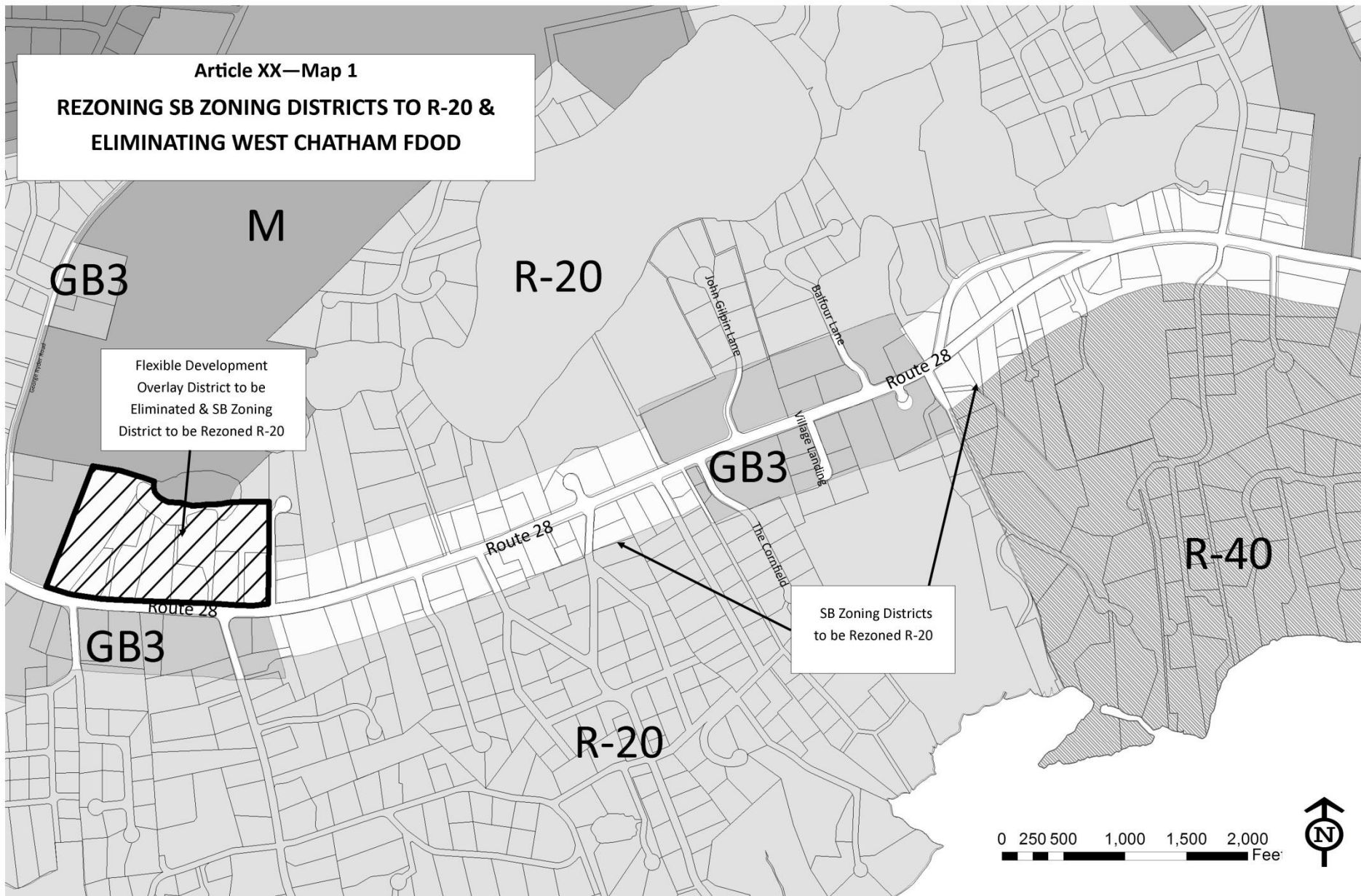


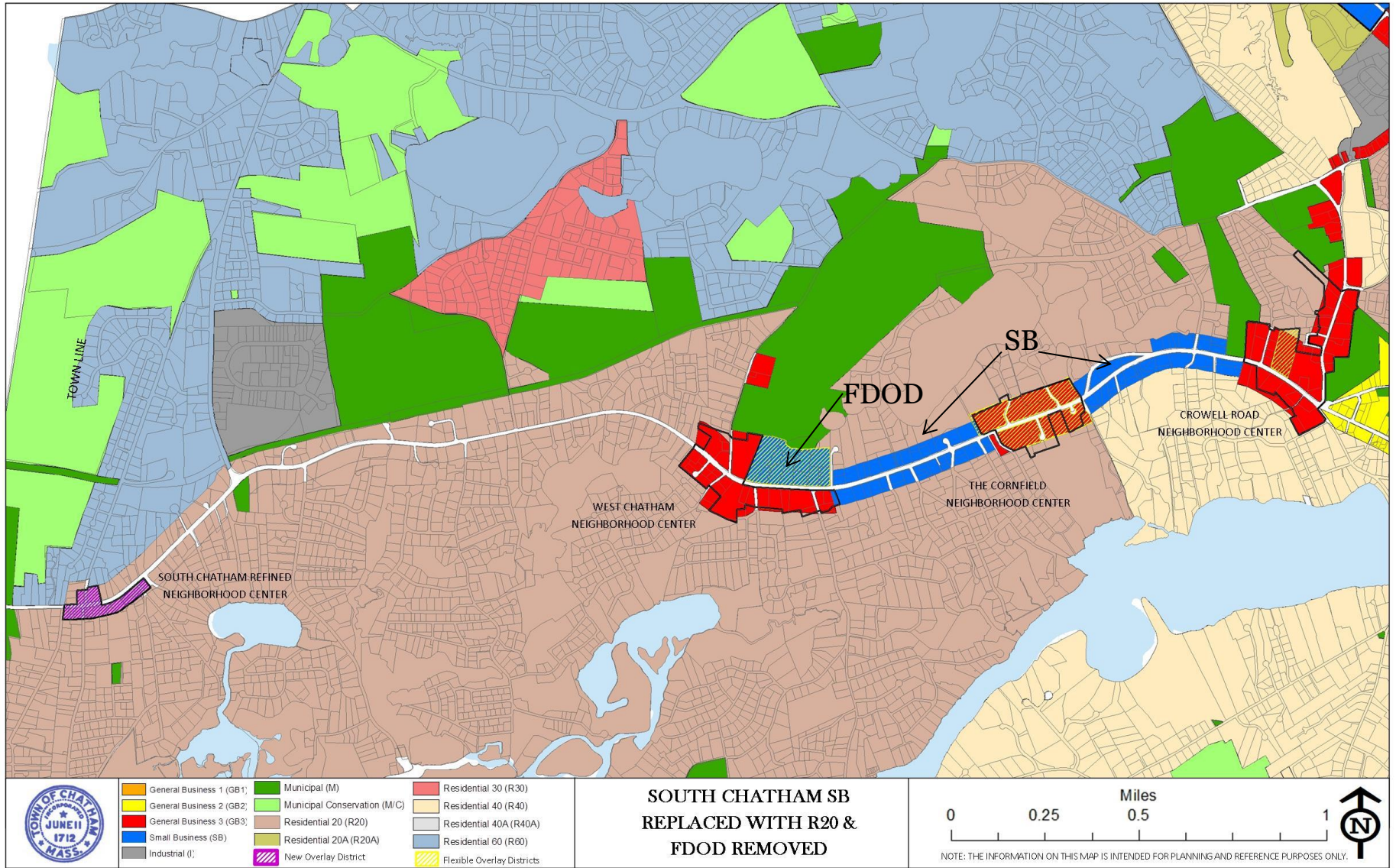
In-Between Areas

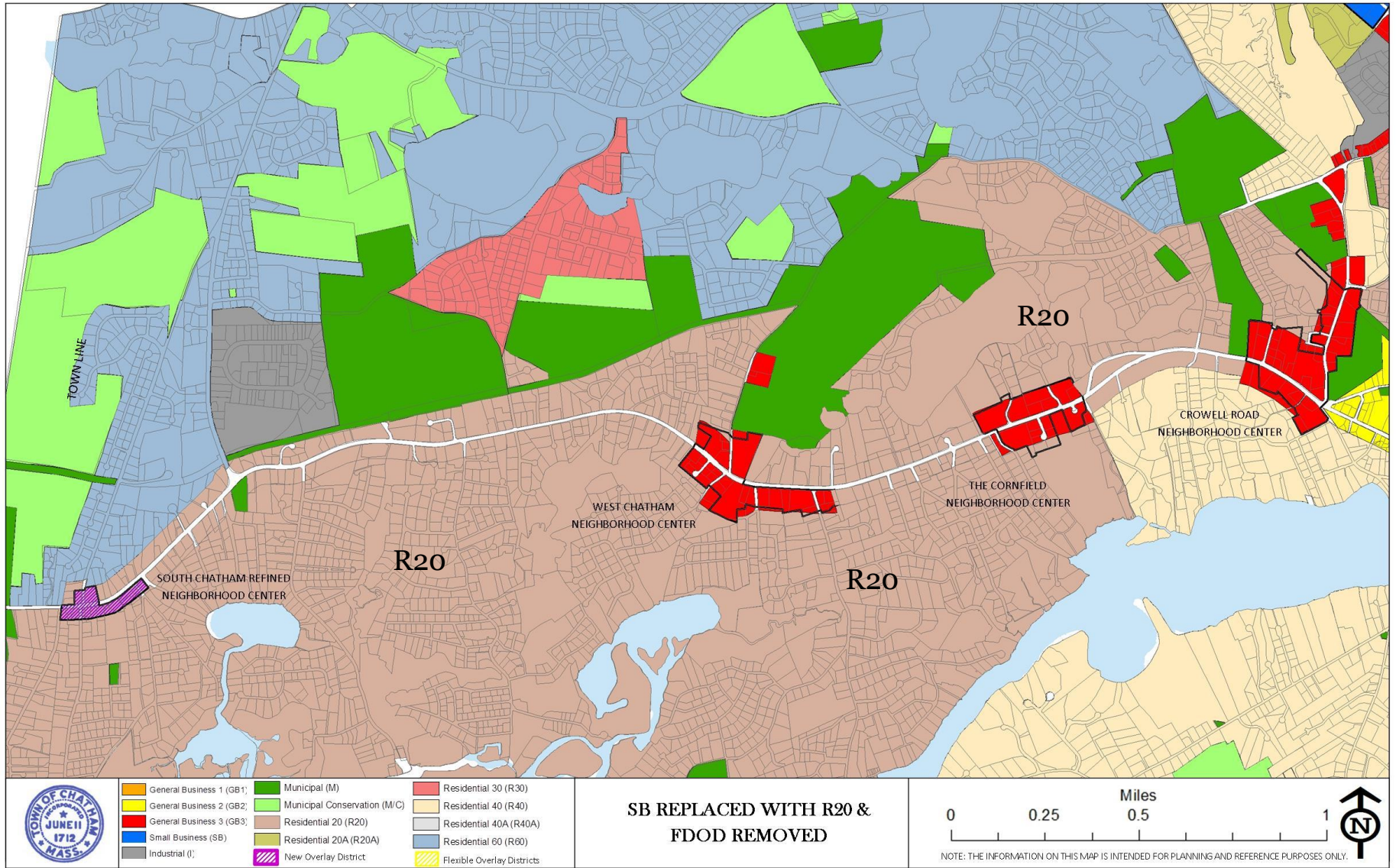
8

- **Removes**
 - Remaining two Small Business districts along corridor
 - ✦ Between West Chatham & Cornfield
 - ✦ Between Cornfield & Crowell Rd
 - Flexible Development Overlay District in West Chatham
- **Rezones to Residential – 20,000 sf**
- **Consistent with Comprehensive Plan Goal 1.1**
 - changing Small Business districts to residential zoning
 - ensuring that the intensity of development is maintained or minimized – not maximized
 - Reducing the potential for residential and commercial development/redevelopment

Article XX—Map 1
REZONING SB ZONING DISTRICTS TO R-20 &
ELIMINATING WEST CHATHAM FDOD







Flexible Development Overlay Districts

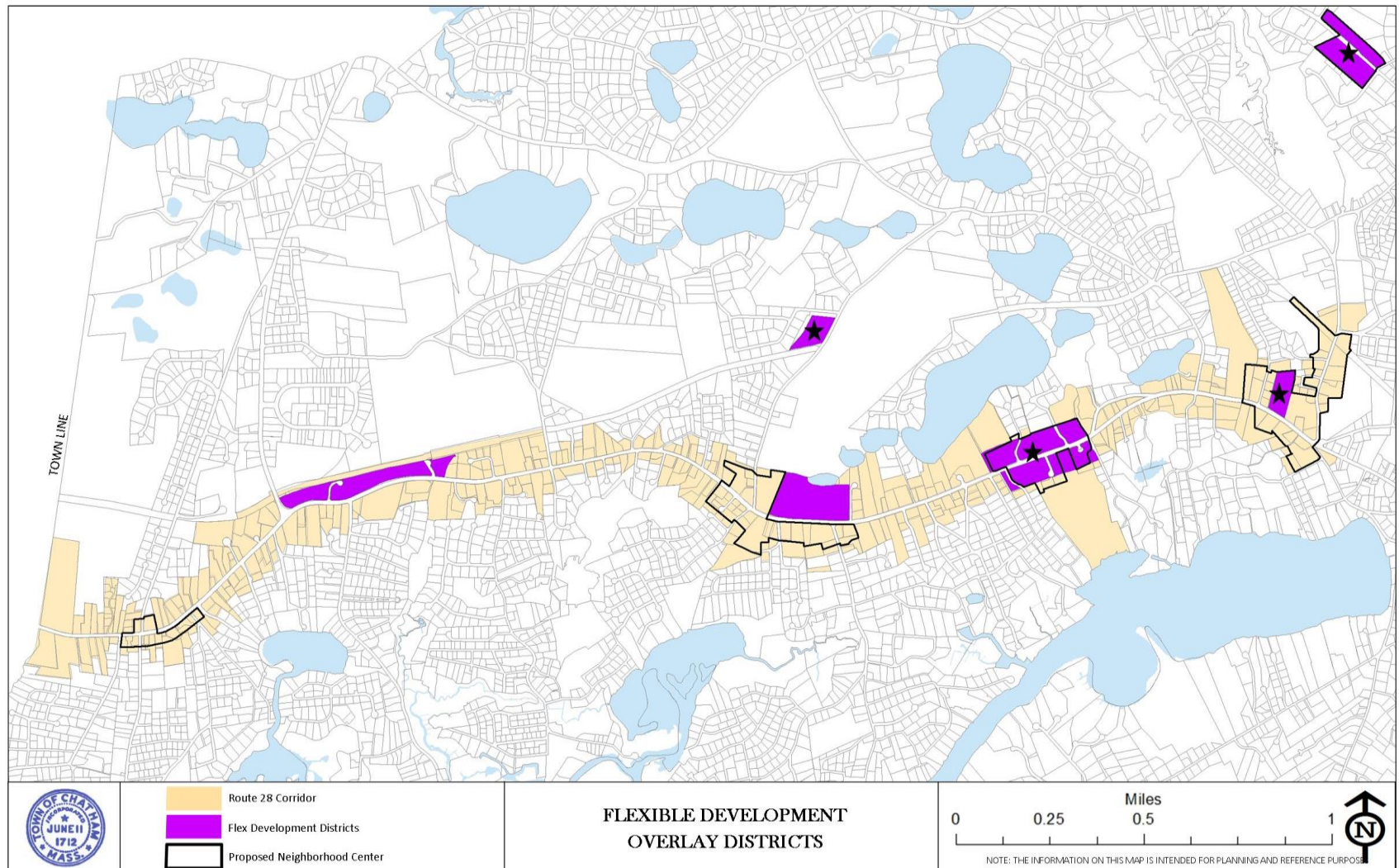
Amend **Section IV, Overlay Regulations**; Subsection **D. Flexible Development District, 2.b.** by deleting the second sentence of that paragraph as follows:

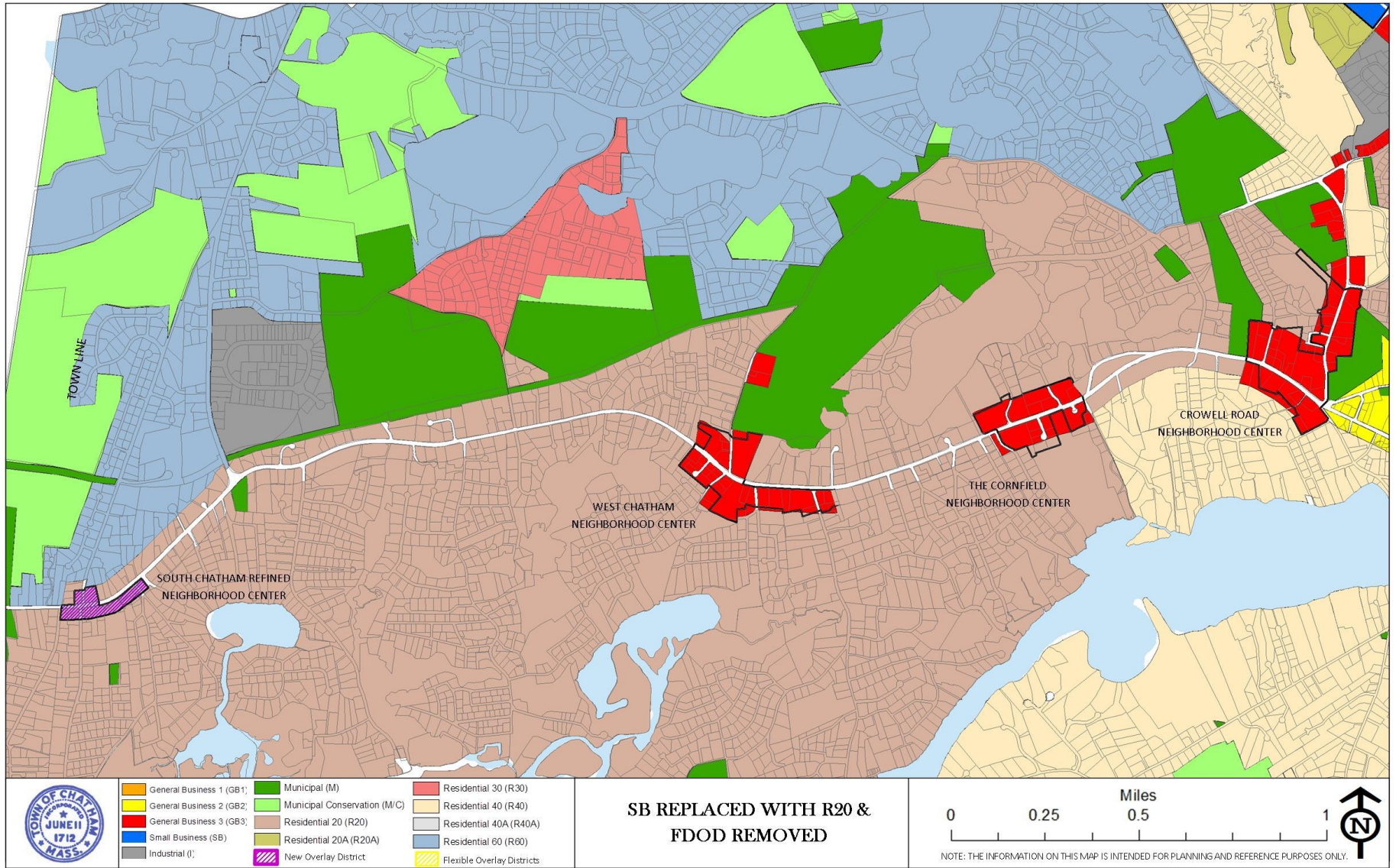
2. Procedure

b. The plans for a Flexible Development shall comply with the specific requirements ***for multi-family dwellings, independent living facilities or congregate living facilities***, whichever applicable, set forth in Section VII of this Bylaw. ~~The Board may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this Bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.~~

Flexible Development Overlay Districts

13





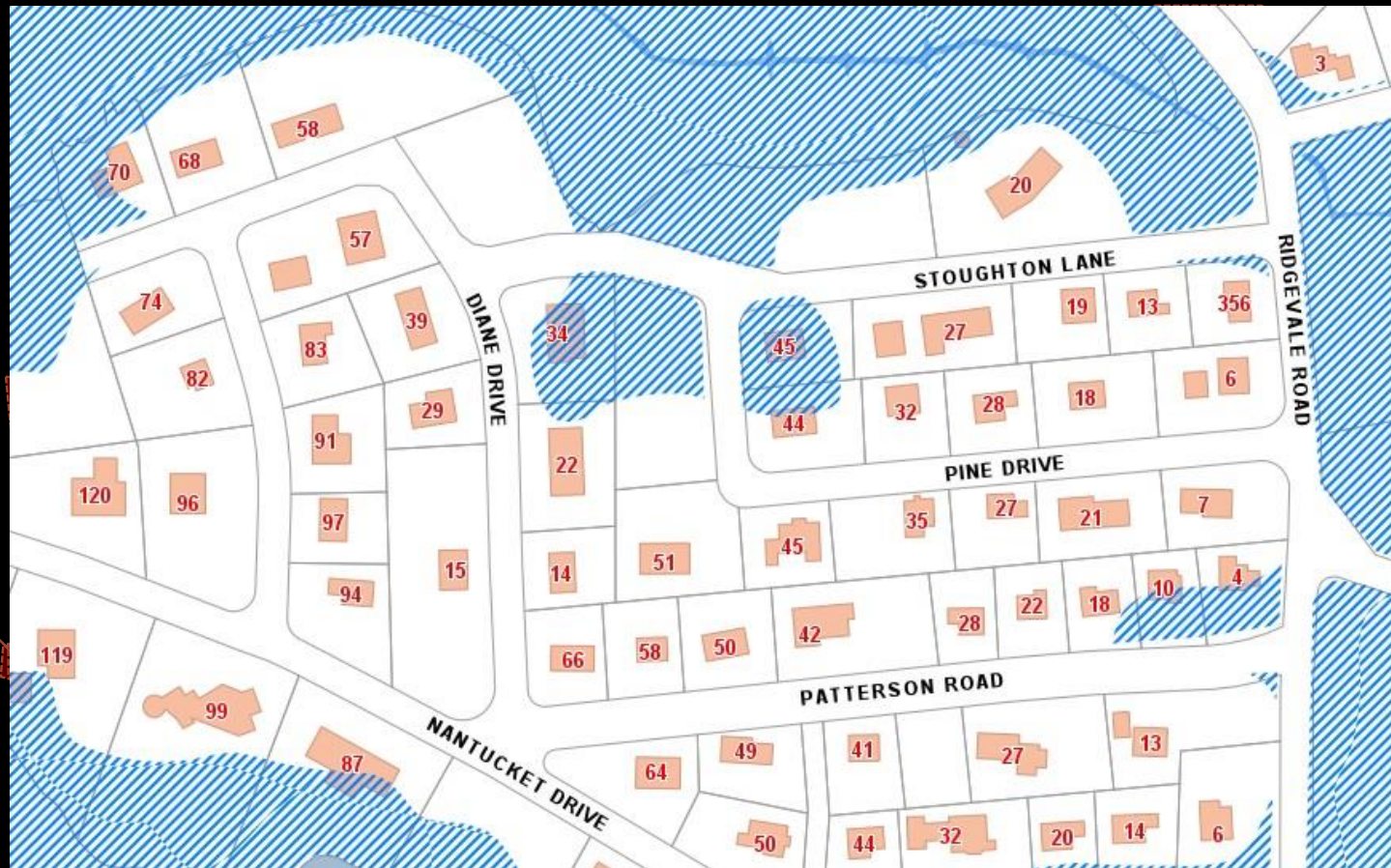
Conservancy and Flood Plain District Amendments

1

1. UPDATE THE FLOOD PLAIN DISTRICT
2. ALIGN CONSERVANCY & FLOOD PLAIN DISTRICT ZONING BOUNDARIES
3. ALLOW REASONABLE FLOOD HAZARD MITIGATION
4. ENHANCE ZBA SPECIAL PERMIT CRITERIA FOR ELEVATED DWELLINGS

Board of Selectmen - March 15, 2016
Ryan Bennett, Principal Planner

2014 Expanded FEMA Floodplain



2014 Expanded FEMA Floodplain



2016 ATM Articles

4

Article (i): *Flood Plain District Overlay & Conservancy District Prohibited Uses*

Article (ii): *Conservancy District Boundary & Height Changes*

Article (iii): *Nonconforming Lots, Buildings & Uses (Revised)*

Article (i) - Flood Plain District Overlay & Conservancy District Prohibited Uses

5

- **Remove Flood Plain District requirements redundant with MA State Building Code;**
- **Introduce floodplain management terms**
 - Base Flood Elevation (BFE)
 - Elevation Certificate
 - Freeboard
- **Continue a prohibition of new dwellings in the Conservancy District, and;**
- **Clarify prohibited uses in the Velocity (VE) Zone.**

Article (ii) - Conservancy District Boundary & Height Changes

6

- **Extend Conservancy District Boundary to be consistent with 2014 floodplain boundary, and**
- **Replace a 20' height restriction with a new approach to controlling maximum height that will allow reasonable flood hazard mitigation.**

Article (iii) - Nonconforming Lots, Buildings & Uses (Revised)

7

- **Enhanced Special Permit criteria for ZBA's consideration of flood hazard mitigation projects:**
 - The extent of lateral expansion proposed, and
 - The extent to which lateral expansion impacts the impervious area of the site.

Key Considerations

8



Twenty (20') Height Restriction in the Conservancy District

Creates advantages and disadvantages for properties in the old and new floodplain

Clarify Prohibited Uses

Continue to prohibit new residential uses; restrict residential uses in the Velocity (VE) Zone

Lateral Expansion

Allow ZBA to specifically to examine extent of lateral expansion

Twenty Foot (20') Restriction

Under current Bylaw this scenario requires a variance.



- Existing grade = 10'
- Base Flood Elevation (BFE) = 14'
- Freeboard = + 1'

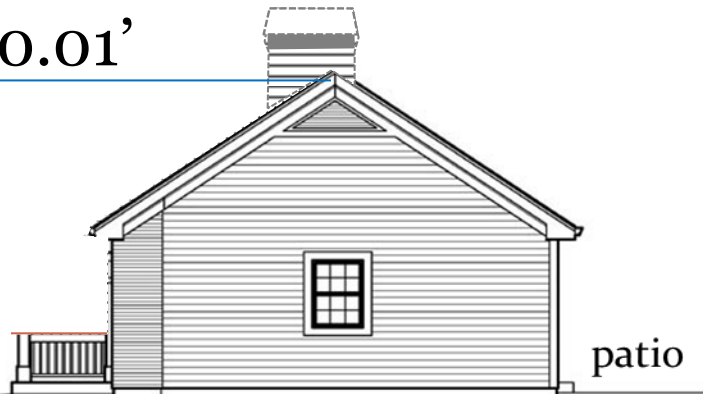


Elevating to Mitigate Flood Hazards

Under current bylaw this scenario requires a Special Permit.

20.01'

30'



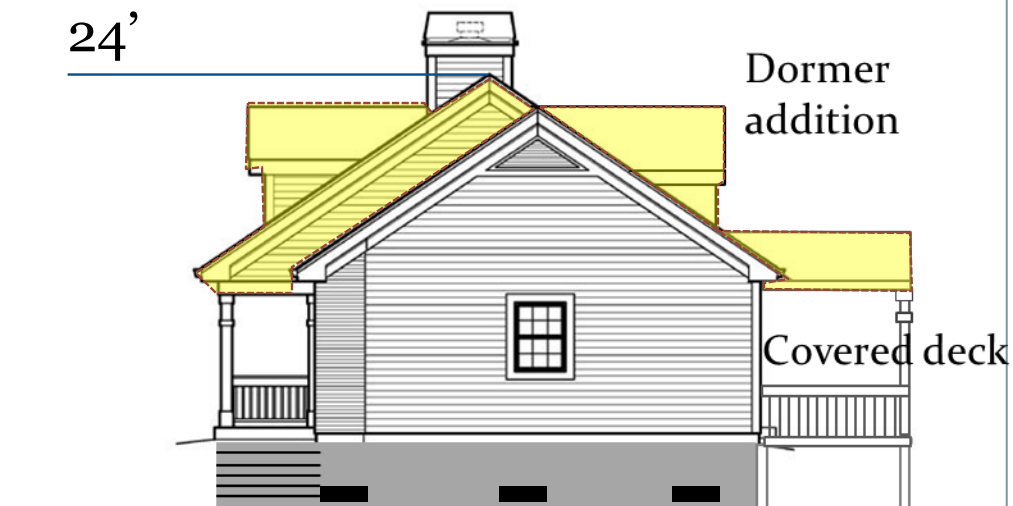
- Existing grade = 10'
- Base Flood Elevation (BFE) = 12'

Maximum Allowable Height

Under Conservancy District Boundary & Height Changes Article,
reasonable flood hazard mitigation would be allowed by
Special Permit



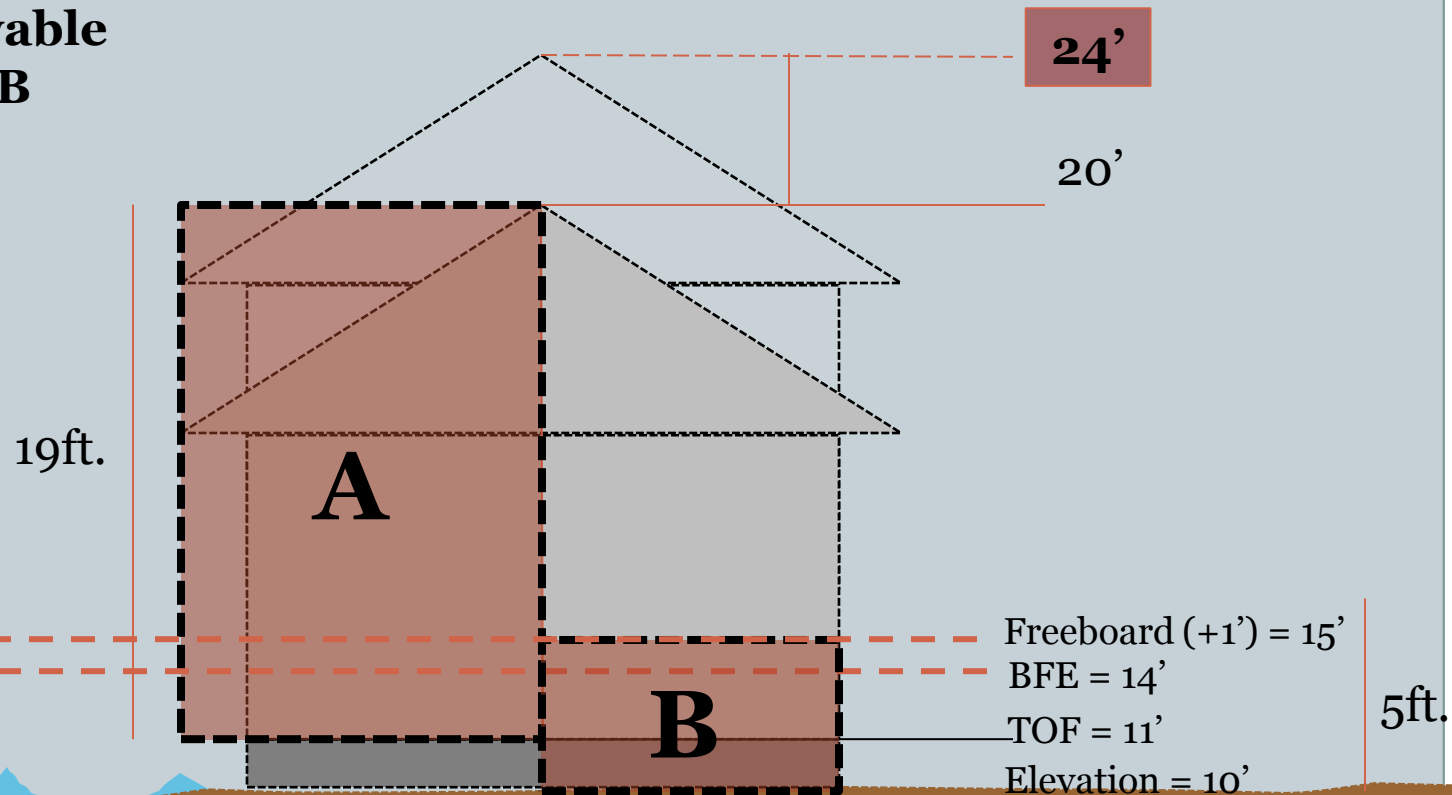
- Existing grade = 10'
- Base Flood Elevation (BFE) = 14'
- Freeboard = +1'



Maximum Allowable Height

12

**Maximum Allowable
Height = A + B**



Summary

13

1

Flood Plain Overlay District & Conservancy District Prohibited Uses Article

- Align the Conservancy & Flood Plain District Boundaries
- Replace the 20' height restriction with a new method for limiting height that will allow properties to mitigate flood risk.

2

Conservancy District Boundary & Height Changes Article

- Remove language in the Flood Plain District Overlay that is duplicative or inconsistent with the MA State Building Code,
- Maintain prohibition of new residential uses, and
- Clarify rights of existing residential uses

3

Nonconforming Lots, Buildings & Uses Article

- Provide ZBA with additional criteria to consider the extent of lateral expansion (revised)

END

14

Questions/Discussion

Definitions

15

Base Flood Elevation (BFE) - is the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps and on flood profiles. The BFE is the regulatory requirement for the elevation of structures

Elevation Certificate - is the Town of Chatham's official record that provides elevation information for substantial improvements in all identified Special Flood Hazard Areas (SFHA). Elevation Certificates are used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) from FEMA. Elevation Certificates are signed and stamped by a registered land surveyor, engineer, or architect

Freeboard - is a term used to describe a factor of safety expressed in feet above the 1-percent-annual-chance flood level (1 foot of freeboard is now required by MA State Building Code)

Variance Criteria

16

- Owing to circumstances relating to the soil conditions, shape or topography of the land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, and
- A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner, and
- That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.

Petitioner must demonstrate all three

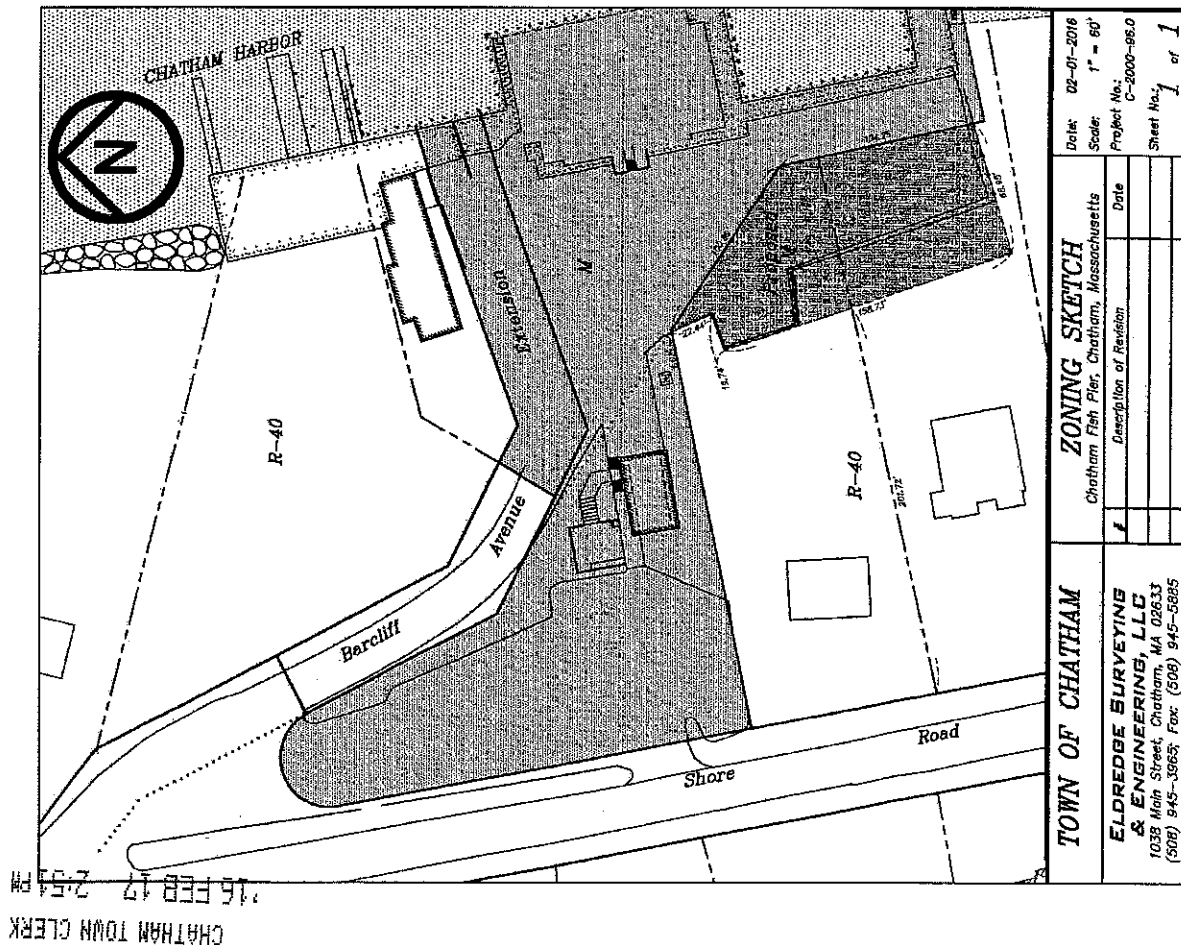
**RE-ADVERTISED – CHANGE IN PUBLIC HEARING DATE
CHATHAM PLANNING BOARD
LEGAL NOTICE**

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 5, the Chatham Planning Board will hold a Public Hearing on **Tuesday, March 8th at 7:00 p.m.** in the Town Offices Annex, Large Meeting Room, 261 George Ryder Road, Chatham, MA to take public comments on the following proposed amendment to the Protective (Zoning) By-Law:

ARTICLE XX – Zoning- FISH PIER MUNICIPAL ZONING DISTRICT EXTENSION

To see if the Town will vote to amend the Town of Chatham Zoning Map by rezoning a 11,196 square foot area of land consisting of a portion of two parcels located at 390 and 400 Shore Road, also identified as lot E9 and E10 on Assessor's Map 16F, from the R-40 Zone to the Municipal (M) Zone, all as depicted on a plan entitled "Zoning Sketch", dated 02-01-2016 and drawn by Eldredge Surveying & Engineering, LLC, said plan being both attached to this Town Meeting warrant and on file with the Town Clerk.

Copies of the text and map for the proposed amendment is available in the Community Development Department, 261 George Ryder Road, Chatham, MA 02633 and the Town Clerk's Office, 549 Main Street, Chatham, MA 02633 and may be inspected during normal business hours.



**CHATHAM PLANNING BOARD
LEGAL NOTICE**

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 5, the Chatham Planning Board will hold a Public Hearing on **Tuesday, November 10, 2015 at 7:00 p.m.** in the Town Offices Annex - Large Meeting Room, 261 George Ryder Road, Chatham, MA to take public comments on the following proposed amendment to the Protective (Zoning) By-Law:

Article ##- Citizens Petition, Zoning- Flexible Development Districts

~~Strikethrough~~ indicates language proposed for deletion.

To see if the Town will vote to amend its Protective Bylaw (Zoning) by deleting subsections a, b, and e of Section IV, Paragraph D, Flexible Development Districts, as set forth below, or to take any other action relative thereto:

Section IV, Paragraph D. Flexible Development Districts, Subparagraph 3. Location, as follows:

The Flexible Development Overlay District is located in the following zones:

~~a. The GB2 (D) District bounded northerly by an irregular line 300 feet from, and parallel to, Route 28 and by Conservancy District C28; easterly by land of Emily P. Sylvan and Uncle Albert's Drive, southerly by an irregular line three hundred (300) feet from, and parallel to Route 28; westerly by Kelley Lane; southerly by Route 28; and westerly by the easterly bound of land of Pilgrim Village of Chatham, Inc.~~

~~b. The SB (FC) District bounded westerly by the westerly property line of Sumner G.N. Harding and Jean C. Harding; northerly by land of the Town of Chatham, by Bearse's Pond, and by a line five hundred (500) feet from, and parallel to Route 28; westerly by Whelden Way; and Southerly by Route 28, excluding therefrom any land lying within the bounds of the adjoining Conservancy District.~~

~~e. The SB(FD) District in South Chatham bounded westerly by Route 137; northerly by land of the Town of Chatham from Route 137 to Cackle Cove Creek; easterly by Cackle Cove Creek to Route 28 and Southerly by Route 28."~~

And to redesignate the remaining subsections accordingly.

Copies of the text for the proposed amendment is available in the Community Development Department, 261 George Ryder Road, Chatham, MA 02633 and the Town Clerk's Office, 549 Main Street, Chatham, MA 02633 and may be inspected during normal business hours.

Peter Cocolis, Chairman

10/15/15 (Cape Cod Chronicle)

10/22/15 (Cape Cod Chronicle)

Citizen's
Petition

CHATHAM PLANNING BOARD
LEGAL NOTICE

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 5, the Chatham Planning Board will hold a Public Hearing on **Tuesday, April 12, 2016 at 7:00 p.m.** in the Town Offices Annex, Large Meeting Room, 261 George Ryder Road, Chatham, MA to take public comments on the following proposed amendment to the Protective (Zoning) By-Law:

Article # ____ (to be provided): Zoning: Deletion of North Chatham Flexible Development Overlay District

~~Strikethrough~~ indicates language proposed for deletion.

The Flexible Development Overlay District is located in the following zones:

d. The ~~SB (FD) District~~ bounded easterly by Old Mail Road and by Misty Meadow Lane; southerly by a line three hundred (300) feet from, and parallel to, Route 28, westerly by Leo Vernon Road; southerly by Route 28; westerly by land of the Town of Chatham; northerly by a line one hundred fifty (150) feet from, and parallel to, Route 28.

And to re-designate the remaining subsections accordingly.

Copies of the text for the proposed amendment are available in the Community Development Department, 261 George Ryder Road, Chatham, MA 02633 and the Town Clerk's Office, 549 Main Street, Chatham, MA 02633 and may be inspected during normal business hours or viewed online at:
http://www.town.chatham.ma.us/Public_Documents/ChathamMA_BComm/Planning

Chronicle
3/24/16 and 3/31/16



Town Of Chatham
Department of
Community Development

Town Annex 261 George Ryder Road
Chatham, MA 02633

TELEPHONE (508) 945-5168

FAX (508) 945-5163



MEMORANDUM

To: Planning Board
From: Deanna Ruffer & Renie Hamman, ACP
Date: September 25, 2015
Subject: Flexible Development Overlay District ("FDOD")

GENERAL DISCRIPTION OF FDOD

The Flexible Development Overlay District ("FDOD") was adopted in the Town of Chatham in 1987 and amended in 1997 to add congregate and independent living facilities. The FDOD regulates Multiple Family Dwellings, Independent Living Facilities and Congregate Living Facilities within the FDOD districts in conjunction with Section VII, Special Regulations ("SR") as follows:

- No.15. Multi-Family Dwelling (New Construction); and
- No.18. Independent Living Facility and Congregate Living Facilities

The FDOD has a stated purpose to "provide the Town with a Special Permit/Site Plan Approval ("*SP/SPA*") mechanism to better control and provide a mix of commercial and multi-family, senior or congregate residential development in selected zones."

There are six Flexible Development Overlay Districts throughout the Town of Chatham as shown on the Zoning Map:

Four are located along the Route 28 Corridor:

- South Chatham area (*w/ Small Business underlying*)
- West Chatham area (*w/ Small Business underlying*)
- Cornfield area (*w/ General Business-3 underlying*)
- Crowell area (*w/ General Business-3 underlying*)

The other two are:

- On George Ryder Road (*w/ Municipal underlying*)
- On Orleans Road next to R20A district (*w/ Small Business underlying*)

A Citizen's Petition on the 2015 Annual Town Meeting Warrant was approved by Town Meeting, eliminating the South Chatham, West Chatham and Cornfield FDODs. As a result of a posting procedural error, this bylaw amendment was not approved by the Attorney General.

OTHER DISTRICTS WHERE THE SAME USES ARE PERMITTED

Multiple Family Dwelling use and Independent and Congregate Living Facilities are also permitted in Town as follows and as shown on the Zoning map:

Multiple Family Dwelling:

- By Special Condition in the Residential R20A district which is located off of Orleans Road at Misty Meadow Lane and Frost Fish Hill¹ with a density of no more than 8 bedrooms per acre of contiguous buildable upland per SR No. 15; and
- By SP/SPA in the General Business-1 ("GB-1") district which is the downtown Main Street area with a density of no more than 8 bedrooms per acre of contiguous buildable upland per SR No. 15.

Independent and Congregate Living Facilities:

- By SP/SPA in the General Business-1 ("GB-1") district with a density of no more than 12 units per acre of contiguous buildable upland and no dwelling unit shall contain more than 2 bedrooms per SR No. 18.

Special Regulations ("SR") No.15 & No.18 detail additional criteria for development of these uses including but not limited to setbacks, buffers, green space and building and impervious coverages. *See SR No.15 & No. 18 attached for reference.*

Two provisions of the bylaw the Planning Board may wish to discuss:

1. Waiver or Modification of Dimensional Requirements

FDOD Section, Subsection 2. b. states:

"The plans for a Flexible Development shall comply with the specific requirements for multi-family dwellings, independent living facilities or congregate living facilities, whichever applicable, set forth in Section VII of this Bylaw. The Board ***may waive or modify these dimensional requirements*** if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this Bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good." ***emphasis added.***

Note that there is a lack of clarity in the clause; "these dimensional requirements" as to whether or not the allowance to modify or waive dimensional requirements refers to 'dimensional' only (i.e. setbacks, height, buffer, etc.) or if it includes 'density' requirements (i.e. bedroom and/or units) as well.

¹ Note that this area is not currently or scheduled to be located on municipal sewer

2. Bedrooms vs. Dwelling units

As stated above, SR No. 15 on multi-family dwelling use calculates density by bedrooms. It is unusual for zoning regulations to use bedrooms rather than dwelling units when defining allowed density for multi-family development. It appears this has been the cause of some variations in interpretation in the past.

Note that if a change is made to calculate density by dwelling units instead of by bedrooms, it is reminded that the Board of Health Nitrogen Loading Regulations and Sewer Regulations would still apply as to number of bedrooms allowed.

ADDITIONAL CONSIDERATIONS

The following are several additional considerations the Board may wish to discuss in its deliberations with regard to the Flexible Development Overlay Districts:

- M.G.L. Ch.40A, §3 states that local land use regulations and bylaws shall not discriminate against a disabled person and that the imposition of land use requirements on congregate (or independent) living facilities among non-related persons with disabilities that are not similarly imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. Thus, if elimination of all or most FDOD districts, the Planning Board should review the remaining districts that allow congregate and living facilities (and multi-family) and determine if those uses should be incorporated in other districts.
- FAIR HOUSING ACT 42 U.S.C. § 3601 et seq., establishes protections for persons with disabilities and families with children with which local zoning requirements must comply. This may be interpreted by the courts as ensuring that adequate area is provided for the development of housing for persons with disabilities and families with children.
- The only R20A district is located in the Misty Meadow Lane/Frost Fish Hill area on the south side of Orleans Road (Route 28). This area is not located on town sewer or scheduled to be connected to sewer in the foreseeable future.
- The last development permitted under the FDOD is 1300-1320 Main Street (Seacrest Village) in 2005 (with the special permit No. 05-069 amended on April 12, 2011). This development would become a pre-existing nonconforming use, entitled to relief under Massachusetts General Law, Chapter 40A Section 6 and Section V of the Protective Bylaw if this overlay district is eliminated.
- During the neighborhood input process there was a wide range of perspectives offered about the area in West Chatham to the north side of Route 28 east of Ocean State Job Lots. This area includes a mix of residential and commercial uses, some of which are pre-existing nonconforming uses and some of which were permitted either subject to special conditions or by special permit under the existing Small Business District (professional office, gift shop and home occupation).

OPTIONS

1. Eliminate the three FDOD districts as proposed by Citizen's Petition which was adopted at the 2015 Annual Town Meeting² and maintain the three other FDOD districts as resulting in:

- a. South Chatham FDOD, West Chatham FDOD and Cornfield FDOD would be eliminated;
- b. Crowell FDOD, George Ryder FDOD, and Orleans Rd. FDOD would remain.

Note however that as described below, the George Ryder FDOD is inappropriate as a FDOD district due to its current municipal use. Therefore, there would only be two viable FDOD districts; Crowell FDOD and Orleans Rd FDOD. Additionally, the Orleans Rd FDOD area is not located on town sewer or scheduled to be connected to sewer in the foreseeable future.

2. Eliminate all FDOD districts;

Resulting in:

- a. Multi-Family Dwelling uses only being permitted in the R20A under a Special Condition ("SC") and in the GB-1 under a SP/SPA; and
- b. Congregate and Independent Living Facility uses only being permitted in the GB-1 under a SP/SPA;

When discussing this option, the Planning Board may wish to consider:

- (i) if the above districts would be sufficient for these uses (this may be a concern of the Attorney General if proposed and passed at town meeting);
- (ii) whether multi-family dwelling and/or congregate and independent living facility uses should be allowed in other zoning districts (for example, multi-family, congregate and/or independent living facilities could be added as SP/SPA use(s) in all GB districts);

3. Eliminate the;

- (1) South Chatham FDOD as it is located in a primarily small residential neighborhood with little commercial development and may therefore not be appropriate for FDOD development; and
- (2) the George Ryder FDOD as it is currently developed as a municipal use housing the Chatham Police Department and the Town Hall Annex with an underlying Municipal zoning district and thus is unsuitable for any possible FDOD development.

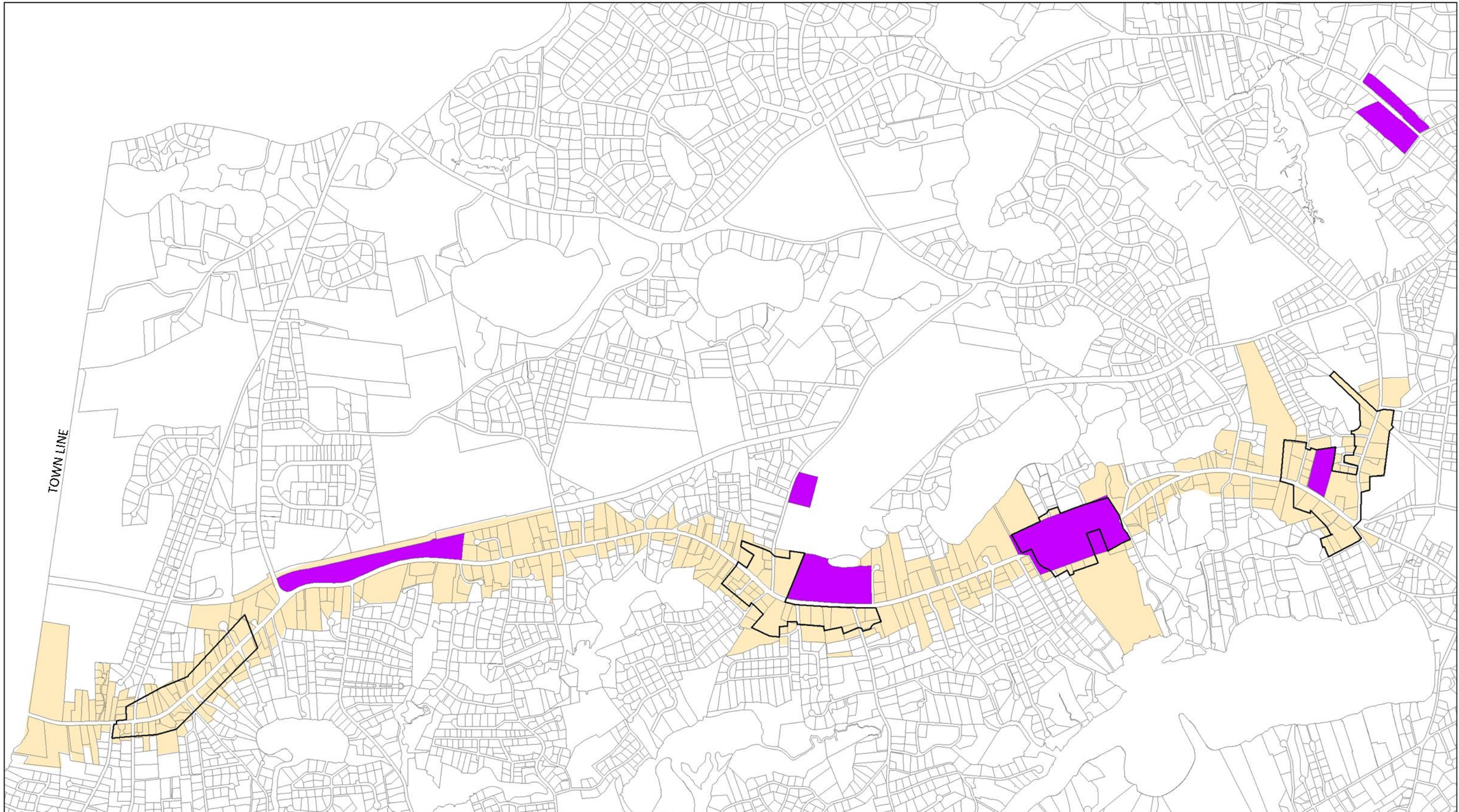
4. Rework the FDOD regulations, which could include:




- Amending, clarifying, restricting, or removing the authority to grant waivers;

² Although adopted at the Annual Town Meeting a procedural error was found resulting in the Attorney General Office not approving the specific Article.

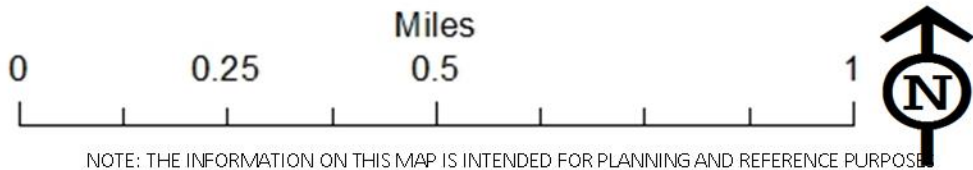
- Change the density cap to dwelling units rather than bedrooms; and/or
- Reduce the density cap.

During its discussion, the Board may identify other options, including one or more combinations of the above, that warrant discussion and consideration.



-  Route 28 Corridor
-  Flex Development Districts
-  Proposed Neighborhood Center

FLEXIBLE DEVELOPMENT
OVERLAY DISTRICTS



Proposed deletions are shown as ~~strikeout~~.
Proposed additions are shown as ***Bold, Italic, Underline***.

TOWN OF CHATHAM
RULES AND REGULATIONS
OF THE
SEWER DEPARTMENT

ARTICLE II
REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005, regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, ***except as permitted herein. Title 5 System Sewage Flow*** Design Criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health Regulations in effect on May 10, 2005 ***May 11, 2006; or additional flow is approved under Section 4 hereof.*** ***Expansion;*** or a variance pursuant to Section 5 ***9 hereof*** is first obtained. ***Any approved increase in flow is subject to the time limitations of Section 7;*** ~~except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.~~

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be ~~determined~~ ***calculated*** using provisions set forth in 310 CMR 15.203 ***Title 5*** System Sewage Flow Design Criteria, and any local Board of Health Regulation modifying such in effect on May 10, 2005 ***May 11, 2006***. The owner of any property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health Regulations in effect on May 10, 2005 ***May 11, 2006***, or 310 CMR 15.000 et seq., whichever flow is less.

Section 4. Expansion.

A. Single Family Residential Properties.

Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to, or scheduled to be connected to the sewer within two (2) years, subject to the following:

- 1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.**
- 2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department.**
- 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.**
- 4. Single Family residential properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.**

B. Non Single Family Residential Properties.

Requests for an increase in sewage flow for other than single family residential properties (4A above), including but not limited to, commercial, industrial, mixed-use, multi-family, or institutional properties shall be made in writing to the Water and Sewer Commissioners for determination. Such request shall include floor plans showing existing and proposed conditions. Such requests may be granted contingent upon determination of compliance with the Rules and Regulations of the Sewer Department and parity with septic system flow.

- 1. Requests under this Section shall be submitted in writing, including all the documentation cited above, to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the request.**

2. The hearing of the Water and Sewer Commissioners shall commence within 45 days of the date that the request is submitted and a decision thereon shall be issued within 14 days from the close of the public hearing.
3. All other necessary local approvals as applicable have been issued.

Section 5. Changes in Sewage Flow.

- A. Changes in the calculated Title 5 System Sewage Flow Design Criteria flow associated with an individual existing connection that do not result in any increase in sewage flow to the sewer system are permitted with the approval, without waiver, of the appropriate Town Departments, Boards, Committees, and/or Commissions. The request shall be made in writing to the DPW Director indicating existing use(s) and flow(s) and proposed use(s) and flow(s).
- B. Should a change in Title 5 System Sewage Flow Design Criteria flow result in a decrease in the sewage flow needs for the property, the owner may elect to return unused flow to the Town, subject to applicable provisions of law. Following a review, by Town staff and owner, of the historic and current flow and agreement between Town staff and owner on the amount of unused flow, the property owner may, by affidavit, return the unused flow to the Town. Such affidavit shall indicate the owner is willingly returning the unused flow and recognizes the limitations this may place on future land uses or expansion of existing land uses on the property. Such unused flow returned to the Town is subject to further use by the Town at its discretion. A property owner who returns unused flow to the Town accrues no advantages if future land use or expansion of existing land uses on the property or other property(s) is desired. The property owner shall submit an application subject to all provisions of this Article II.

Section 6. Sewage Flow Transfers.

Transfer of Title 5 System Sewage Flow Design Criteria flow from one property to another property is prohibited.

Section 7. Time Limitation.

If an approved sewage flow increase is not actually used within two (2) years from the date the flow increase was approved, the sewage flow increase shall revert to the Town automatically unless, upon application from the applicant submitted in writing to the DPW Director prior to such two (2) year date, the Water and Sewer Commissioners grant an extension of time for good cause shown prior to the two (2) year period from the approval. Good cause may include but shall not be limited to a demonstration that pursuit of other regulatory permits has caused delays; or that other practical barriers to completing construction have caused unforeseen delays. The burden of proof shall be on the applicant and the matter shall be reviewed by the Water and Sewer Commissioners at a posted public meeting. An applicant shall be allowed no more than one extension of time for a period not to exceed one year.

Section 8. Rebuilding because of fire, flood, storm or other acts of nature.

A property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the sewage flow of the structure being replaced.

Section 9. Hardship Variance.

A. General Procedure

All applications for a hardship variance as set forth below shall be submitted in writing to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the application. Each application shall include a list prepared by the applicant and certified by the Assessors of the Town naming all abutters to the subject property. Such abutters and parties in interest shall be notified of the hearing, by certified or registered mail, no less than two weeks prior to the hearing.

B. Hardship Variance

In the case of unusual and substantial hardship, established by a preponderance of the evidence, which must be substantiated by the applicant, not the result of acts or omissions of the landowner, the Board of the Water and Sewer Commissioners, after a public hearing, as aforesaid, may grant a variance to this part of the regulation, in whole or in part, provided that sufficient capacity exists and such relief may be granted without substantially derogating from the intent or purpose of this regulation.

Section 10. Appeals.

Any person aggrieved by the final decision of the Water and Sewer Commissioners under these regulations shall have standing to seek relief by way of a petition of certiorari under MGL Chapter 249 §4.

Section 11. Town of Chatham Sewer Bank Allocation and Permit Policy.

The Water and Sewer Commissioners may from time to time adopt policies, procedures, and protocols not inconsistent with these regulations.

March 1, 2016

HAND CARRIED

CHATHAM TOWN CLERK

15 MAR 1 3:16PM

Town Clerk Julie Smith

Town of Chatham

Dear Julie:

Enclosed herewith are 6 pages with 28 signatures in support of a Citizens' Petition, Article # (to be provided), entitled *Amendments to Town of Chatham Rules and Regulations of the Sewer Department, Article II, Regulation of Sewer Flow*, for the May 2016 Annual Town Meeting scheduled on or about May 9, 2016. You will note that the petition is on both sides of each single sheet page with the signatures on the reverse side.

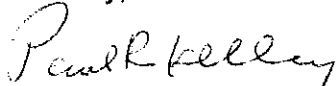
Also enclosed is a copy of the letter we are submitting to Town Manager Jill Goldsmith, which includes the Motion and Explanation to be included in the Warrant with the Petition Article.

If you have any questions about this, or if we have failed to provide the required information, please notify me at 508 945 5578 (Email: prjbkelley@comcast.net) as soon as possible.

I would greatly appreciate your letting me know when the required ten signatures have been verified.

Thank you.

Sincerely,



Paul Kelley, Contact Petitioner Deborah S. Ecker Norman Pacun Gloria Freeman
27 Young's Farm Lane 70 Sears Point Lane 14 Sunset Lane 208 Kendrick Rd.
P. O. Box 1428
West Chatham, MA 02669

cc: Ms. Shanna Nealy

March 1, 2016

HAND CARRIED

CHATHAM TOWN CLERK

Ms. Jill Goldsmith
Town Manager
Town of Chatham

'16 MAR 1 3:17PM

Dear Ms. Goldsmith:

As the proponents of a Citizens Petition Article, we have submitted today to Town Clerk Julie Smith, a Petition with more than the required ten signatures, requesting the Chatham Board of Selectmen to place an Article on the Warrant for the 2016 Annual Town Meeting to be held on or about May 9, 2016. The title of our Article is "Amendments to Town of Chatham Rules and Regulations of the Sewer Department, Article II, Regulation of Sewer Flow". We would appreciate your letting me know as soon as possible if for any reason this title can not be used. (Tel: 508 945 5578) (Email: prjbkelley@comcast.net).

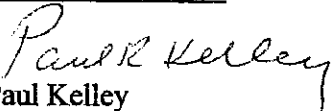
A copy of the Petition and submission to Julie Smith is enclosed as are copies of the Motion and Explanation to be included in the Warrant. If you have any question about this, or if we have failed to provide the required information, please notify me promptly.

If for any reason I can not be reached, please notify Norman Pacun (Tel: 508 945 1627) (email: clamknife@comcast.net).

Thank you.

Sincerely,

Contact Petitioner


Paul Kelley
27 Young's Farm Lane
P.O. Box 1428
W. Chatham 02669
Tel: 508 945 5578
Email: prjbkelley@comcast.net

Deborah S. Ecker
70 Sears Point Lane
Chatham

Norman Pacun
14 Sunset Lane
Chatham

Gloria Freeman
208 Kendrick Rd
N. Chatham

Enc. Petition Article, Motion and Explanation

cc: Ms. Shanna Nealy

Attachment (2 pages) to Letter of March 1, 2016 from Paul Kelley, Contact Petitioner to Town Manager Jill Goldsmith

Motion: By Paul Kelley

I move that the Town vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meetings, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto.

Speaker: Paul Kelley

Explanation: Paul Kelley

The purpose of this Petition Article is to offer Chatham citizens the opportunity to ensure that Chatham's Sewer Department Regulations, Article II, are administered as intended. Article II was proposed in 2005, principally by the Friends of Chatham Waterways, for dual purposes:

(1) To ensure parity of those property owners who can connect to the new sewer system, with those who by necessity remain on individual septic systems (over 50% of the town) and who are governed by the Board of Health Regulations; and

(2) To prevent the unintended consequence of overdevelopment that is enabled by the installation of central sewers throughout the Town.

These are the reasons Article II is referred to as the Growth Neutral Regulation.

This Petition Article provides for Article II's continuation of purpose in contradiction to the article the Board of Selectmen is sponsoring. Their article authorizes the Board to make their own sewer flow allocation policies without regard to Article II, relying instead on those they created under the former Sewer Bank, or any new unspecified policies they, or a majority of three of five members, may adopt at any time in the future without review or approval of Town Meeting.

Although Town Meeting members, in 2005, overwhelmingly voted for Article II, it has not been properly implemented. Instead, the Board of Selectmen, as Water and Sewer Commissioners, has used allocation policies they revised in 2010 while the new treatment plant was under construction. These 2010 policies which contain large flow allocations for economic development, in addition to the size of our sewer treatment plant, continue to be the Selectmen's basis for granting applications of sewage flow increases more than two years after the State Department of Environmental Protection ended the order under which the original policy was authorized.

This Petition Article in many respects is essentially the same as the Selectmen's, although there are some major differences which need to be understood.

In Section 4, this Petition Article accepts the Selectmen's proposal to grant an additional bedroom to most single family residences connecting to the sewer. In addition, this Article authorizes the Board of Selectmen to grant applicants increases in sewer flow for emergencies or projects of significant importance and community value, ones in keeping with the character of the town, and not to further an applicant's private interests.

The Selectmen's amendments would have the effect of allowing them to approve unlimited amounts of additional sewage flow to commercial or multi-family projects which they alone find

"worthy" or to be "in the best interests of the town." It also allows for unlimited and wide open allocations without any real standards or criteria. It has been made clear that the intent of this provision is to totally disregard the concept of parity.

In Section 5, the Selectmen's amendments would codify so-called "give-backs." This means that when a property owner who has unneeded flow returns the allocation to the town, it would be available for the Selectmen to grant to anyone without any restrictions. In the Selectmen's version this section also allows a property owner to transfer sewage flow connections from one business to an unlimited number of other businesses on the same property, so as to effectively control flow to the property owner's own advantage, thereby changing a property's use and character.

Our Petition Article has no provision for "give-backs" or unlimited transfer of connections. These are undesirable and in conflict with parity and unnecessarily complicate the Selectmen's article.

In Section 11, the Selectmen's amendments would grant their Board, as Water and Sewer Commissioners, authority to establish future "policies, protocols or procedures," at any time, so long as these are not "inconsistent" with Sewer Regulations. Under this provision, one member's vote could determine what is or is not "inconsistent" with Article II Regulations. No Town Meeting approval would ever be required. Town Meeting would lose its authority to approve all future allocations of sewer flow.

This Petition Article continues Chatham's historical precedent of requiring all changes and amendments to sewer flow regulations, including any Sewer Bank policies, or any other modifications or policies, which regulate sewer flow, to be approved by a majority vote of Town Meeting.

Taxpayers are spending hundreds of millions of dollars on a sewer system for the entire town. They should continue to have a voice on how it is spent.



Town of Chatham

Town Clerk
549 Main Street
Chatham, MA 02633



Julie S. Smith, MMC/CMMC
TOWN CLERK
jsmith@chatham-ma.gov

Tel: (508) 945-5101
Fax: (508) 945-0752
www.chatham-ma.gov

TO: Board of Selectmen
Jill R. Goldsmith, Town Manager

FROM: Julie Smith, Town Clerk

DATE: March 2, 2016

SUBJECT: Petition Article

Attached please find a petition article as submitted to my office. We have completed the review of the signatures and have certified more than 10 valid signatures of registered voters.

Therefore, as required by MGL Chapter 39, Section 10, this article shall be placed on the next Annual Town Meeting Warrant.

Citizens' Petition for Insertion of Article into the 2016 Annual Town Meeting Warrant

Strikethrough indicates language proposed for deletion; **Bold, Italic, Underline** indicates language proposed for insertion.

Pursuant to M.G.L. Chapter 39, Section 10, we the undersigned voters of Chatham do petition the Chatham Board of Selectmen to place the following Article in the Warrant for the 2016 Annual Town Meeting.

Article _____ - Amendments to Town of Chatham Rules and Regulations of the Sewer Department

To see if the Town will vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meeting, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto:

ARTICLE II. REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005 regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, **except as permitted herein. Title 5 System Sewage Flow** Design criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on May 10, 2005, **May 11, 2006; or additional flow is approved under Section 4, hereof. Expansion;** or a variance pursuant to Section 5 **9 below hereof** is first obtained. **Any approved increase in flow is subject to the time limitations of Section 7;** except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be determined **calculated** using provisions set forth in 310 CMR 15.203: **Title 5 System Sewage Flow Design Criteria**, and any local Board of Health Regulation modifying such in effect on May 10, 2005 **May 11, 2006**. The owner of any such property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on May 10, 2005 **May 11, 2006**, or 310 CMR 15,000 et-Seq., whichever is less.

Section 4. **Expansion.** ~~Rebuilding because of fire, flood, storm or other acts of nature-~~ (See Section 8.)

A. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to, or scheduled to be connected to the sewer within two (2) years, subject to the following:

- 1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.**
- 2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department and these provisions of amended Article II.**
- 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.**
- 4. Single Family Residential Properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.**

B. Emergency Projects or Projects of Significant Community Value.

Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of

- (i) a public health matter, environmental problem or similar emergency, or**
- (ii) a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant,**

a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by

the majority of the Commissioners that an emergency exists under (i) above or that the project meets the requirements of (ii) above, the Commissioners shall be empowered to award such additional flow as may be necessary, subject to such conditions as the Commissioners may determine. The remaining provisions of this Article II shall be fully applicable to the public hearings and decisions of both the Committee and the Commissioners.

Section 5. Changes in Sewage Flow.

(See Section 9.)

Section 6. Sewage Flow Transfers.

Transfer of Title 5 System Sewage Flow Design Criteria flow from one property to another property is prohibited.

Section 7. Time Limitation.

If an approved sewage flow increase is not actually used within two (2) years from the date the flow increase was approved, the sewage flow increase shall revert to the Town automatically unless, upon application from the applicant submitted in writing to the DPW Director prior to such two (2) year date, the Water and Sewer Commissioners grant an extension of time for good cause shown prior to the two (2) year period from the approval. Good cause may include but shall not be limited to a demonstration that pursuit of other regulatory permits has caused delays; or that other practical barriers to completing construction have caused unforeseen delays. The burden of proof shall be on the applicant and the matter shall be reviewed by the Water and Sewer Commissioners at a posted public meeting. An applicant shall be allowed no more than one extension of time for a period not to exceed one year.

Section 4.8. Rebuilding because of fire, flood, storm or other acts of nature.

A property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the sewage flow of the structure being replaced.

Section 5.9. Hardship Variances.

A. General Procedure.

All applications for a hardship variance as set forth below shall be submitted in writing to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the application. Each application shall include a list prepared by the applicant and certified by the Assessors of the Town naming all abutters to the subject property. Such abutters and parties in interest shall be notified, by certified or registered mail, of the hearing, no less than two weeks prior to each of the hearings before the Water and Sewer Advisory Committee and the Water and Sewer Commissioners.

B. Hardship Variance.

In the case of unusual and substantial hardship, established by a preponderance of the evidence, which must be substantiated by the Applicant, not the result of acts or omissions of the landowner, the Board of the Water and Sewer Commissioners, after a public hearing of which notice has been given by publication and posting for a minimum of two weeks, as aforesaid, may grant a variance to this part of the regulation, provided that sufficient capacity exists and such relief may be granted without substantially derogating from the intent or purpose of this regulation.

Section 10. Appeals.

Any person aggrieved by the final decision of the Water and Sewer Commissioners under these regulations shall have standing to seek relief by way of a petition of certiorari under MGL Chapter 249 Section 4.

Section 11. Amendments, Policies, or Other Changes which Regulate Use of Town Sewers and/or Sewer Flow Allocation.

Notwithstanding anything to the contrary which may be contained herein, all amendments, changes, modifications, revisions, additions or rescissions to these Sewer Department Rules and Regulations, or any sewer bank policy, procedure, protocol, amendment, modification or similar policy, which regulate the use of town sewers and/or sewer flow allocation, shall not be valid without the approval and authorization of a majority vote of Town Meeting.

NAME (PRINT)	SIGNATURE	VOTING ADDRESS
✓ PAUL R. KELLEY	Paul R. Kelley	27 YOUNG'S FARM LN.
✓ JUDITH B. KELLEY	Judith B. Kelley	27 YOUNG'S FARM LN.
✓ JOHN D. COTNAM	John D. Cotnam	54 Colonial Dr.
✓ Barbara Cotnam	BARBARA COTNAM	54 Colonial Dr.
✓ MARTIN D. BUONICCONTI	Martin D. Buoniconti	19 MARTHA KENDRICK DR.
✓ Susan K. Buoniconti	Susan K. Buoniconti	19 Martha Kendrick Dr.
✓ Rynette GERSTLE	Rynette Gerstle	40 Young's Farm Lane
✓ JOHN PAYSON	John Payson	40 YOUNG'S FARM LANE

15 MAR 1 3:46PM

Citizens' Petition for Insertion of Article into the 2016 Annual Town Meeting Warrant

~~Strikethrough~~ indicates language proposed for deletion; **Bold, Italic, Underline** indicates language proposed for insertion.

Pursuant to M.G.L. Chapter 39, Section 10, we the undersigned voters of Chatham do petition the Chatham Board of Selectmen to place the following Article in the Warrant for the 2016 Annual Town Meeting.

Article _____ - Amendments to Town of Chatham Rules and Regulations of the Sewer Department

To see if the Town will vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meeting, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto:

ARTICLE II. REGULATION OF SEWER FLOW**Section 1. Existing Structures.**

Any structure in existence on May 10, 2005 regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, **except as permitted herein. Title 5 System Sewage Flow** Design criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on May 10, 2005, **May 11, 2006; or additional flow is approved under Section 4, hereof. Expansion;** or a variance pursuant to Section 5 **9 below hereof** is first obtained; **Any approved increase in flow is subject to the time limitations of Section 7;** except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be determined **calculated** using provisions set forth in 310 CMR 15.203: **Title 5 System Sewage Flow Design Criteria**, and any local Board of Health Regulation modifying such in effect on May 10, 2005 **May 11, 2006**. The owner of any such property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on May 10, 2005 **May 11, 2006**, or 310 CMR 15,000 et. Seq., whichever is less.

Section 4. Expansion. ~~Rebuilding because of fire, flood, storm or other acts of nature.~~ (See Section 8.)

A. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to; or scheduled to be connected to the sewer within two (2) years, subject to the following:

- 1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.**
- 2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department and these provisions of amended Article II.**
- 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.**
- 4. Single Family Residential Properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.**

B. Emergency Projects or Projects of Significant Community Value.

Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of

- (i) a public health matter, environmental problem or similar emergency, or**
- (ii) a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant,**

a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by

the majority of the Commissioners that an emergency exists under (i) above or that the project meets the requirements of (ii) above, the Commissioners shall be empowered to award such additional flow as may be necessary, subject to such conditions as the Commissioners may determine. The remaining provisions of this Article II shall be fully applicable to the public hearings and decisions of both the Committee and the Commissioners.

Section 5. Changes in Sewage Flow.

(See Section 9.)

Section 6. Sewage Flow Transfers.

Transfer of Title 5 System Sewage Flow Design Criteria flow from one property to another property is prohibited.

Section 7. Time Limitation.

If an approved sewage flow increase is not actually used within two (2) years from the date the flow increase was approved, the sewage flow increase shall revert to the Town automatically unless, upon application from the applicant submitted in writing to the DPW Director prior to such two (2) year date, the Water and Sewer Commissioners grant an extension of time for good cause shown prior to the two (2) year period from the approval. Good cause may include but shall not be limited to a demonstration that pursuit of other regulatory permits has caused delays; or that other practical barriers to completing construction have caused unforeseen delays. The burden of proof shall be on the applicant and the matter shall be reviewed by the Water and Sewer Commissioners at a posted public meeting. An applicant shall be allowed no more than one extension of time for a period not to exceed one year.

Section 4-8. Rebuilding because of fire, flood, storm or other acts of nature.

A property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the sewage flow of the structure being replaced.

Section 5.9. Hardship Variances.

A. General Procedure.

All applications for a hardship variance as set forth below shall be submitted in writing to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the application. Each application shall include a list prepared by the applicant and certified by the Assessors of the Town naming all abutters to the subject property. Such abutters and parties in interest shall be notified, by certified or registered mail, of the hearing, no less than two weeks prior to each of the hearings before the Water and Sewer Advisory Committee and the Water and Sewer Commissioners.

B. Hardship Variance.

In the case of unusual and substantial hardship, established by a preponderance of the evidence, which must be substantiated by the Applicant, not the result of acts or omissions of the landowner, the Board of the Water and Sewer Commissioners, after a public hearing of which notice has been given by publication and posting for a minimum of two weeks, as aforesaid, may grant a variance to this part of the regulation, provided that sufficient capacity exists and such relief may be granted without substantially derogating from the intent or purpose of this regulation.

Section 10. Appeals.

Any person aggrieved by the final decision of the Water and Sewer Commissioners under these regulations shall have standing to seek relief by way of a petition of certiorari under MGL Chapter 249 Section 4.

Section 11. Amendments, Policies, or Other Changes which Regulate Use of Town Sewers and/or Sewer Flow Allocation.

Notwithstanding anything to the contrary which may be contained herein, all amendments, changes, modifications, revisions, additions or rescissions to these Sewer Department Rules and Regulations, or any sewer bank policy, procedure, protocol, amendment, modification or similar policy, which regulate the use of town sewers and/or sewer flow allocation, shall not be valid without the approval and authorization of a majority vote of Town Meeting.

NAME (PRINT)	SIGNATURE	VOTING ADDRESS
✓ NORMAN PACUN	Norman Pacun	14 Sunset Lane
✓ CAROL PACUN	Carol Pacun	14 Sunset Lane
✓ David P MacAdam	David P MacAdam	52 School St
✓ ANN B. O'CONNELL	Ann B O'Connell	50 Chase St.
✓ Spencer Y. Grey	Spencer Y Grey	65 Lienau Dr
✓ ANN F. GREY	Ann F. Grey	65 Lienau Dr
✓ Mary Ann Gray	Mary A Gray	280 Stage Harbor Rd

Citizens' Petition for Insertion of Article into the 2016 Annual Town Meeting Warrant

Strikethrough indicates language proposed for deletion; ***Bold, Italic, Underline*** indicates language proposed for insertion.

Pursuant to M.G.L. Chapter 39, Section 10, we the undersigned voters of Chatham do petition the Chatham Board of Selectmen to place the following Article in the Warrant for the 2016 Annual Town Meeting.

Article _____ - Amendments to Town of Chatham Rules and Regulations of the Sewer Department

To see if the Town will vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meeting, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto:

ARTICLE II. REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005 regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, ***except as permitted herein. Title 5 System Sewage Flow*** Design criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on May 10, 2005, ***May 11, 2006; or additional flow is approved under Section 4, hereof, Expansion;*** or a variance pursuant to Section 5 ***9 below hereof*** is first obtained; ***Any approved increase in flow is subject to the time limitations of Section 7;*** except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be determined ***calculated*** using provisions set forth in 310 CMR 15.203: ***Title 5 System Sewage Flow Design Criteria***, and any local Board of Health Regulation modifying such in effect on May 10, 2005 ***May 11, 2006***. The owner of any such property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on May 10, 2005 ***May 11, 2006***, or 310 CMR 15,000 et seq., whichever is less.

Section 4. ***Expansion. Rebuilding because of fire, flood, storm or other acts of nature.*** (See Section 8.)

A. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to, or scheduled to be connected to the sewer within two (2) years, subject to the following:

- 1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.***
- 2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department and these provisions of amended Article II.***
- 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.***
- 4. Single Family Residential Properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.***

B. Emergency Projects or Projects of Significant Community Value.

Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of

- (i) a public health matter, environmental problem or similar emergency, or***
- (ii) a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant,***

a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by

the majority of the Commissioners that an emergency exists under (i) above or that the project meets the requirements of (ii) above, the Commissioners shall be empowered to award such additional flow as may be necessary, subject to such conditions as the Commissioners may determine. The remaining provisions of this Article II shall be fully applicable to the public hearings and decisions of both the Committee and the Commissioners.

Section 5. Changes in Sewage Flow.

(See Section 9.)

Section 6. Sewage Flow Transfers.

Transfer of Title 5 System Sewage Flow Design Criteria flow from one property to another property is prohibited.

Section 7. Time Limitation.

If an approved sewage flow increase is not actually used within two (2) years from the date the flow increase was approved, the sewage flow increase shall revert to the Town automatically unless, upon application from the applicant submitted in writing to the DPW Director prior to such two (2) year date, the Water and Sewer Commissioners grant an extension of time for good cause shown prior to the two (2) year period from the approval. Good cause may include but shall not be limited to a demonstration that pursuit of other regulatory permits has caused delays; or that other practical barriers to completing construction have caused unforeseen delays. The burden of proof shall be on the applicant and the matter shall be reviewed by the Water and Sewer Commissioners at a posted public meeting. An applicant shall be allowed no more than one extension of time for a period not to exceed one year.

Section 4-8. Rebuilding because of fire, flood, storm or other acts of nature.

A property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the sewage flow of the structure being replaced.

Section 5.9. Hardship Variances.

A. General Procedure.

All applications for a hardship variance as set forth below shall be submitted in writing to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the application. Each application shall include a list prepared by the applicant and certified by the Assessors of the Town naming all abutters to the subject property. Such abutters and parties in interest shall be notified, by certified or registered mail, of the hearing, no less than two weeks prior to each of the hearings before the Water and Sewer Advisory Committee and the Water and Sewer Commissioners.

B. Hardship Variance.

In the case of unusual and substantial hardship, established by a preponderance of the evidence, which must be substantiated by the Applicant, not the result of acts or omissions of the landowner, the Board of the Water and Sewer Commissioners, after a public hearing of which notice has been given by publication and posting for a minimum of two weeks, as aforesaid, may grant a variance to this part of the regulation, provided that sufficient capacity exists and such relief may be granted without substantially derogating from the intent or purpose of this regulation.

Section 10. Appeals.

Any person aggrieved by the final decision of the Water and Sewer Commissioners under these regulations shall have standing to seek relief by way of a petition of certiorari under MGL Chapter 249 Section 4.

Section 11. Amendments, Policies, or Other Changes which Regulate Use of Town Sewers and/or Sewer Flow Allocation.

Notwithstanding anything to the contrary which may be contained herein, all amendments, changes, modifications, revisions, additions or rescissions to these Sewer Department Rules and Regulations, or any sewer bank policy, procedure, protocol, amendment, modification or similar policy, which regulate the use of town sewers and/or sewer flow allocation, shall not be valid without the approval and authorization of a majority vote of Town Meeting.

NAME (PRINT)	SIGNATURE	VOTING ADDRESS
✓ Gloria M. Freeman	Gloria M. Freeman	208 Kendrick Rd. N. Chatham
✓ Robert S. Winters	Robert S. Winters	215 W. Wendell Way N. Chatham
✓ PETER S. FARBER	Peter S. Farber	24 Ryder Pond West Road
✓ C. LEE FREEMAN	C. Lee Freeman	208 Kendrick Rd. N. Chatham
✓ William F. Tuxbury	W. F. Tuxbury	91 George Ryder Rd. N. Chatham
✓ Edith W. Tuxbury	Edith W. Tuxbury	91 George Ryder Rd. N. Chatham
✓ Elaine Orban	Elaine Orban	152 Cross St. Chatham
✓ Virginia T. Nickerson	Virginia T. Nickerson	20 Bittersweet Ln. Chatham

Citizens' Petition for Insertion of Article into the 2016 Annual Town Meeting Warrant

Strikethrough indicates language proposed for deletion; **Bold, Italic, Underline** indicates language proposed for insertion.

Pursuant to M.G.L. Chapter 39, Section 10, we the undersigned voters of Chatham do petition the Chatham Board of Selectmen to place the following Article in the Warrant for the 2016 Annual Town Meeting.

Article _____ - Amendments to Town of Chatham Rules and Regulations of the Sewer Department

To see if the Town will vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meeting, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto:

ARTICLE II. REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005 regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, **except as permitted herein. Title 5 System Sewage Flow** Design criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on May 10, 2005, **May 11, 2006; or additional flow is approved under Section 4, hereof. Expansion;** or a variance pursuant to Section 5 **9** below **hereof** is first obtained. **Any approved increase in flow is subject to the time limitations of Section 7;** except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be determined **calculated** using provisions set forth in 310 CMR 15.203: **Title 5 System Sewage Flow Design Criteria**, and any local Board of Health Regulation modifying such in effect on May 10, 2005 **May 11, 2006**. The owner of any such property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on May 10, 2005 **May 11, 2006**, or 310 CMR 15.200 et. Seq., whichever is less.

Section 4. **Expansion.** ~~Rebuilding because of fire, flood, storm or other acts of nature.~~ (See Section 8.)

A. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to, or scheduled to be connected to the sewer within two (2) years, subject to the following:

- 1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.**
- 2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department and these provisions of amended Article II.**
- 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.**
- 4. Single Family Residential Properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.**

B. Emergency Projects or Projects of Significant Community Value.

Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of

- (i) a public health matter, environmental problem or similar emergency, or**
- (ii) a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant.**

a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by

[illegible]

Citizens' Petition for Insertion of Article into the 2016 Annual Town Meeting Warrant

Strikethrough indicates language proposed for deletion; ***Bold, Italic, Underline*** indicates language proposed for insertion.

Pursuant to M.G.L. Chapter 39, Section 10, we the undersigned voters of Chatham do petition the Chatham Board of Selectmen to place the following Article in the Warrant for the 2016 Annual Town Meeting.

Article _____ - Amendments to Town of Chatham Rules and Regulations of the Sewer Department

To see if the Town will vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meeting, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto:

ARTICLE II. REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005 regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, ***except as permitted herein. Title 5 System Sewage Flow*** Design criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on May 10, 2005, ***May 11, 2006; or additional flow is approved under Section 4, hereof, Expansion;*** or a variance pursuant to Section 5 ***9*** below ***hereof*** is first obtained; ***Any approved increase in flow is subject to the time limitations of Section 7;*** except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be determined ***calculated*** using provisions set forth in 310 CMR 15.203: ***Title 5 System Sewage Flow*** Design Criteria, and any local Board of Health Regulation modifying such in effect on May 10, 2005 ***May 11, 2006***. The owner of any such property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on May 10, 2005 ***May 11, 2006***, or 310 CMR 15,000 et. Seq., whichever is less.

Section 4. ***Expansion.*** ~~Rebuilding because of fire, flood, storm or other acts of nature.~~ (See Section 8.)

A. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to, or scheduled to be connected to the sewer within two (2) years, subject to the following:

- 1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.***
- 2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department and these provisions of amended Article II.***
- 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.***
- 4. Single Family Residential Properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.***

B. Emergency Projects or Projects of Significant Community Value.

Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of

- a public health matter, environmental problem or similar emergency, or***
- a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant.***

a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by

the majority of the Commissioners that an emergency exists under (i) above or that the project meets the requirements of (ii) above, the Commissioners shall be empowered to award such additional flow as may be necessary, subject to such conditions as the Commissioners may determine. The remaining provisions of this Article II shall be fully applicable to the public hearings and decisions of both the Committee and the Commissioners.

Section 5. Changes in Sewage Flow.

(See Section 9.)

Section 6. Sewage Flow Transfers.

Transfer of Title 5 System Sewage Flow Design Criteria flow from one property to another property is prohibited.

Section 7. Time Limitation.

If an approved sewage flow increase is not actually used within two (2) years from the date the flow increase was approved, the sewage flow increase shall revert to the Town automatically unless, upon application from the applicant submitted in writing to the DPW Director prior to such two (2) year date, the Water and Sewer Commissioners grant an extension of time for good cause shown prior to the two (2) year period from the approval. Good cause may include but shall not be limited to a demonstration that pursuit of other regulatory permits has caused delays; or that other practical barriers to completing construction have caused unforeseen delays. The burden of proof shall be on the applicant and the matter shall be reviewed by the Water and Sewer Commissioners at a posted public meeting. An applicant shall be allowed no more than one extension of time for a period not to exceed one year.

Section 4.8. Rebuilding because of fire, flood, storm or other acts of nature.

A property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the sewage flow of the structure being replaced.

Section 5.9. Hardship Variances.

A. General Procedure.

All applications for a hardship variance as set forth below shall be submitted in writing to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the application. Each application shall include a list prepared by the applicant and certified by the Assessors of the Town naming all abutters to the subject property. Such abutters and parties in interest shall be notified, by certified or registered mail, of the hearing, no less than two weeks prior to each of the hearings before the Water and Sewer Advisory Committee and the Water and Sewer Commissioners.

B. Hardship Variance.

In the case of unusual and substantial hardship, established by a preponderance of the evidence, which must be substantiated by the Applicant, not the result of acts or omissions of the landowner, the Board of the Water and Sewer Commissioners, after a public hearing of which notice has been given by publication and posting for a minimum of two weeks, as aforesaid, may grant a variance to this part of the regulation, provided that sufficient capacity exists and such relief may be granted without substantially derogating from the intent or purpose of this regulation.

Section 10. Appeals.

Any person aggrieved by the final decision of the Water and Sewer Commissioners under these regulations shall have standing to seek relief by way of a petition of certiorari under MGL Chapter 249 Section 4.

Section 11. Amendments, Policies, or Other Changes which Regulate Use of Town Sewers and/or Sewer Flow Allocation.

Notwithstanding anything to the contrary which may be contained herein, all amendments, changes, modifications, revisions, additions or rescissions to these Sewer Department Rules and Regulations, or any sewer bank policy, procedure, protocol, amendment, modification or similar policy, which regulate the use of town sewers and/or sewer flow allocation, shall not be valid without the approval and authorization of a majority vote of Town Meeting.

NAME (PRINT)	SIGNATURE	VOTING ADDRESS
David E Burns	[Signature]	23 Cornhill Dr Chatham
Wanda N. Burns	[Signature]	236 Exum Dr Chatham

Citizens' Petition for Insertion of Article into the 2016 Annual Town Meeting Warrant

Strikethrough indicates language proposed for deletion; **Bold, Italic, Underline** indicates language proposed for insertion.

Pursuant to M.G.L. Chapter 39, Section 10, we the undersigned voters of Chatham do petition the Chatham Board of Selectmen to place the following Article in the Warrant for the 2016 Annual Town Meeting.

Article _____ - Amendments to Town of Chatham Rules and Regulations of the Sewer Department

To see if the Town will vote to amend Article II of the Town of Chatham Rules and Regulations of the Sewer Department, as heretofore adopted at the May 9, 2005 Annual Town Meeting, and as such Rules and Regulations were thereafter amended by action of the August 27, 2012 Special Town Meeting, October 7, 2013 Special Town Meeting, and May 12, 2014 Annual Town Meeting, as follows, or to take any other action relative thereto:

ARTICLE II. REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005 regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, except as permitted herein. Title 5 System Sewage Flow Design criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on May 10, 2005, May 11, 2006; or additional flow is approved under Section 4, hereof, Expansion; or a variance pursuant to Section 5 9 below hereof is first obtained; Any approved increase in flow is subject to the time limitations of Section 7; except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be determined calculated using provisions set forth in 310 CMR 15.203: Title 5 System Sewage Flow Design Criteria, and any local Board of Health Regulation modifying such in effect on May 10, 2005 May 11, 2006. The owner of any such property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on May 10, 2005 May 11, 2006, or 310 CMR 15,000 et. Seq., whichever is less.

Section 4. Expansion. Rebuilding because of fire, flood, storm or other acts of nature. (See Section 8.)

A. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to, or scheduled to be connected to the sewer within two (2) years, subject to the following:

1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section 4A.
2. Requests under this Section 4A must be made in writing, including floor plans showing existing and proposed conditions to verify and confirm the number of allowed bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department and these provisions of amended Article II.
3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.
4. Single Family Residential Properties granted flow under this Section may be granted additional flow under a Hardship Variance, Section 9.

B. Emergency Projects or Projects of Significant Community Value.

Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of

- (i) a public health matter, environmental problem or similar emergency, or
- (ii) a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant,

a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by

[illegible]

Article II Sewer Rules and Regulations

Section	Water & Sewer/BOS Version	Petition Version
1	Same	Same
2	Same	Same
3	Same	Same
4A	Same	Same
4.A.1.	Same	Same
4.A.2.	No Change.	added "...and these provisions of amended Article II" to the end of the last sentence.
4.A.3.	Same	Same
4.A.4.	Same	Same

	Non Single Family Residential Properties. Requests for an increase in sewage flow for other than single family residential properties (4A above), including but not limited to, commercial, industrial, mixed-use, multi-family, or institutional properties shall be made in writing to the Water and Sewer Commissioners for determination. Such request shall include floor plans showing existing and proposed conditions. Such requests may be granted contingent upon determination of compliance with the Rules and Regulations of the Sewer Department and parity with septic system flow. 1. Requests under this Section shall be submitted in writing, including all the documentation cited above, to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the request. 2. The hearing of the Water and Sewer Commissioners shall commence within 45 days of the date that the request is submitted and a decision thereon shall be issued within 14 days from the close of the public hearing. 3. All other necessary local approvals as applicable have been issued.	Emergency Projects of Significant Community Value Should additional sewage flow to a property connected or about to be connected to the sewer system be required solely by reason of (i) a public health matter, environmental problem or similar emergency, or (ii) a project of significant importance and/or significant community value other than the furthering of the private interest of the applicant, a Special Application may be filed by the applicant with the Water & Sewer Advisory Committee for their review and recommendation to the Water & Sewer Commissioners for their decision. Upon a finding by the majority of the Commissioners that an emergency exists under (i) above or that the project meets the requirements of (ii) above, the Commissioners shall be empowered to award such additional flow as may be necessary, subject to such conditions as the Commissioners may determine. The remaining provisions of this Article II shall be fully applicable to the public hearings and decisions of both the Committee and the Commissioners.
4B		
5		
5A	Changes that do not increase sewage flow allowed.	Section Deleted
5B	So-called Give Back provision.	Section Deleted
6	Same	Same
7	Same	Same
8	Same	Same

9			
9.A.	No Change.		Last sentence refers to hearings by both Water & Sewer Advisory Committee and Water and Sewer Commissioners, however first sentence only indicates Water and Sewer Advisory Committee review at " <i>posted public meeting.</i> "
9.B.	Proposes to strike " <i>part of the</i> "		Retains " <i>part of the</i> "
			Deletes " <i>in whole or in part,</i> "
10	Same		Same
11	The Water and Sewer Commissioners may from time to time adopt policies, procedures, and protocols not inconsistent with these regulations.		Notwithstanding anything to the contrary which may be contained herein, all amendments, changes, modifications, revisions, additions or rescissions to these Sewer Department Rules and Regulations, or any sewer bank policy, procedure, protocol, amendment, modification or similar policy, which regulate the use of town sewers and/or sewer flow allocation, shall not be valid without the approval and authorization of a majority vote of Town Meeting.

